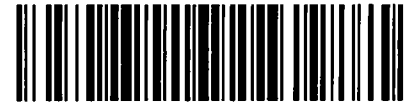




# City of Chicago



SO2017-7427

Office of the City Clerk

## Document Tracking Sheet

<b>Meeting Date:</b>	10/11/2017
<b>Sponsor(s):</b>	Emanuel (Mayor)
<b>Type:</b>	Ordinance
<b>Title:</b>	Issuance of multi-family mortgage revenue bonds, and associated redevelopment agreement and issuance of tax credits for Taylor Street LLC
<b>Committee(s) Assignment:</b>	Committee on Finance

26

CHICAGO November 8, 2017

**To the President and Members of the City Council:**

**Your Committee on Finance having had under consideration**

A substitute ordinance authorizing the issuance of City of Chicago Multi-Family Housing Revenue Bonds (Taylor Street Library and Apartments Project), Series 2017, to enter into and execute a Redevelopment Agreement, and to issue tax credits for Taylor Street LA LLC.

O2017-7427

Amount of Bonds: \$26,000,000

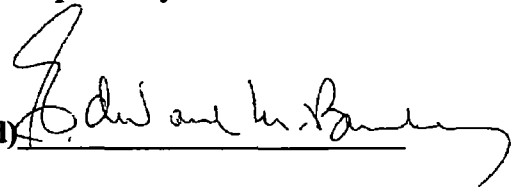
**Having had the same under advisement, begs leave to report and recommend that your Honorable Body pass the proposed Ordinance Transmitted Herewith**

*Substitute*

**This recommendation was concurred in by \_\_\_\_\_ (a viva voce vote of members of the committee with \_\_\_\_\_ dissenting vote(s)).**

Alderman Burke abstained from voting under the provisions of Rule 14.

**Respectfully submitted**

(signed) 

**Chairman**

45

3504: 12-1-1972



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FIN

OFFICE OF THE MAYOR  
CITY OF CHICAGO

RAHM EMANUEL  
MAYOR

October 11, 2017

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

Ladies and Gentlemen:

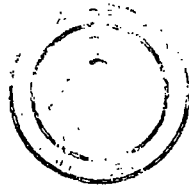
At the request of the Commissioner of Planning and Development, I transmit herewith an ordinance authorizing an issuance of multi-family mortgage revenue bonds, and associated redevelopment agreement and issuance of tax credits, for Taylor Street LLC.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor





## SUBSTITUTE ORDINANCE

**WHEREAS**, by virtue of Section 6(a) of Article VII of the 1970 Constitution of the State of Illinois, the City of Chicago (the "**City**") is a home rule unit of local government and as such may exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, as a home rule unit and pursuant to the Constitution, the City is authorized and empowered to issue multi-family housing revenue bonds for the purpose of financing the cost of acquiring, rehabilitating and equipping an affordable multi-family housing facility for low- and moderate-income families located in the City; and

**WHEREAS**, the City has determined that there exists within the City a serious shortage of decent, safe and sanitary rental housing available for persons of low- and moderate-income and that the continuance of a shortage of affordable rental housing is harmful to the health, prosperity, economic stability and general welfare of the City; and

**WHEREAS**, the City adopted an ordinance on September 6, 2017, evidencing the City's intent to issue multi-family housing revenue bonds, notes or other indebtedness in order to provide financing for costs associated with the acquisition of real property located at approximately 1328-50 West Taylor Street in the City by a to-be-formed limited partnership, of which Roosevelt Square Library LLC ("**Manager**") would be the general partner, and construction thereon of a mid-rise, mixed-use building to be comprised of approximately seventy-three residential dwelling units, community green space and a library (the "**Project**"); and

**WHEREAS**, Taylor Street LA LLC, an Illinois limited liability company ("**Borrower**") has been formed for the purpose of constructing the Project, and Manager is the managing member thereof;

**WHEREAS**, the Chicago Housing Authority ("**CHA**") currently owns the Property; and

**WHEREAS**, CHA intends to make a donation to a not-for-profit corporation acceptable to the DPD Authorized Officer, as defined herein, of a 99-year ground lease of the Property, whereupon such not-for-profit corporation will immediately assign its leasehold interest in the Property to the Borrower, who will develop the Project on the Property; and

**WHEREAS**, by this Ordinance, the City Council has determined that it is necessary and in the best interests of the City to borrow money for the purposes set forth above and in evidence of its limited, special obligation to repay that borrowing, to issue tax-exempt revenue bonds, which are expected to be issued in one series, to be designated as Multi-Family Housing Revenue Bonds (Taylor Street Library and Apartments Project), Series 2017 (the "**Bonds**") as shown on **Exhibit A-2** attached to this Ordinance; and

**WHEREAS**, the principal and interest on the Bonds may be secured by, among other things, a senior mortgage on the leasehold estate in the Property, the Project and certain other related collateral, by certain capital contributions to be made to the Borrower by its investor member(s) in connection with the allocation to the Borrower of federal low-income

housing tax credits, by cash and/or securities collateral from the CHA and by pledges and/or assignments of certain funds, personal property, and contractual rights of the Borrower and its affiliates; and

**WHEREAS**, the Bonds and the obligation to pay interest thereon do not now and shall never constitute an indebtedness of or an obligation of the City, the State of Illinois or any political subdivision thereof, within the purview of any Constitutional limitation or statutory provision, or a charge against the general credit or taxing powers of any of them. No owner of the Bonds shall have the right to compel the taxing power of the City, the State of Illinois or any political subdivision thereof to pay any principal installment of, premium, if any, or interest on the Bonds; and

**WHEREAS**, in connection with the issuance of the Bonds, the City Council has determined by this Ordinance that it is necessary and in the best interests of the City to enter into (i) one or more financing agreements, which may be in the form of (a) a Bond Issuance Agreement (the "**Bond Issuance Agreement**") to provide for the issuance of the Bonds to finance a portion of the costs of the Project, to be entered into among the City, the hereinafter defined Purchaser of the Bonds, and the hereinafter defined Fiscal Agent, providing for the security for and terms and conditions of the Bonds to be issued thereunder and (b) a Loan Agreement (the "**Loan Agreement**") among the City, the Borrower, and the Purchaser providing for the loan of the proceeds of the Bonds to the Borrower and the use of such proceeds; (ii) an arbitrage and/or tax certificate (the "**Tax Agreement**") between the City and the Borrower; and (iii) a Land Use Restriction Agreement between the City and the Borrower (the "**Land Use Restriction Agreement**"); and

**WHEREAS**, the CHA expects to make certain funds from housing authority sources available to the Borrower, which may include *Moving to Work Funds* and/or *Capital Development Funds* as shown on **Exhibit A-2** of this Ordinance (the "**CHA Loan**"), which, when available, may be used to repay a portion of the Bonds; and

**WHEREAS**, the obligations of the Borrower for repayment of the CHA Loan would be evidenced by a promissory note made by the Borrower to the CHA (the "**CHA Note**") and the obligations of the Borrower under the CHA Note would be secured by a second mortgage covering the leasehold interest in the Property and the project; and

**WHEREAS**, the Illinois General Assembly pursuant to 20 ILCS 3805/7.28 (as supplemented, amended and restated from time to time) has authorized a program allowing the allocation of certain tax credits for qualified donations made in connection with affordable housing projects (the "**Donation Tax Credit Program**"); and

**WHEREAS**, the ground leasing of the Property by the CHA may qualify under the Donation Tax Credit Program as an eligible donation, and may generate certain additional proceeds which CHA would also like to make available to the Borrower ("**CHA Donation Tax Credit Loan**"), and the obligations of the Borrower under the CHA Donation Tax Credit Loan would be secured by a third mortgage covering the leasehold estate in the Property and the Project, as shown on **Exhibit A-2** of this Ordinance;

**WHEREAS**, the assignment of its leasehold estate in the Property to the Borrower (the "**Seller Loan**") in exchange for a note made by the Borrower to the not-for-profit corporation holding such leasehold estate will be secured by a fourth mortgage covering the leasehold estate in the Property and the Project, as shown on **Exhibit A-2** of this Ordinance; and

**WHEREAS**, pursuant to an ordinance adopted by the City Council of the City (the "**City Council**") on November 4, 1998, and published at pages 80527-80630 of the Journal of the Proceedings of the City Council (the "**Journal**") of such date, a certain redevelopment plan and project (the "**Roosevelt/Racine Plan**") for the Roosevelt/Racine Tax Increment Financing Redevelopment Project Area (the "**Roosevelt/Racine Area**") was approved pursuant to the Illinois Tax Increment Allocation Redevelopment Act, as amended (65 ILCS 5/11-74.4-1 et seq.) (the "**Act**"); and

**WHEREAS**, pursuant to an ordinance adopted by the City Council on November 4, 1998, and published at pages 80630-80636 of the Journal of such date, the Roosevelt/Racine Area was designated as a redevelopment project area pursuant to the Act; and

**WHEREAS**, pursuant to an ordinance (the "**Roosevelt/Racine TIF Ordinance**") adopted by the City Council on November 4, 1998, and published at pages 80636-80642 of the Journal of such date, tax increment allocation financing was adopted pursuant to the Act as a means of financing certain Roosevelt/Racine Area redevelopment project costs (as defined in the Act) incurred pursuant to the Roosevelt/Racine Plan; and

**WHEREAS**, to induce certain redevelopment pursuant to the Act, the City Council adopted the ordinances on February 5, 1998: approving and adopting a tax increment financing redevelopment project and plan for the Western/Ogden Redevelopment Project Area; designating the Western/Ogden Redevelopment Project Area as a tax increment financing district; and adopting tax increment financing for the Western/Ogden Redevelopment Project Area (the aforesaid Ordinances are collectively referred to herein as the "**Western/Ogden TIF Ordinances**", the redevelopment plan approved by the Western/Ogden TIF Ordinances is referred to herein as the "**Western/Ogden Redevelopment Plan**," the redevelopment project area created by the Western/Ogden TIF Ordinances, as amended, is referred to herein as the "**Western/Ogden Redevelopment Area**," and Increment collected from the Western/Ogden Redevelopment Area shall be known as the "**Western/Ogden Increment**"); and

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

**WHEREAS**, the Roosevelt/Racine Redevelopment Area is either contiguous to, or is separated only by a public right of way from, the Western/Ogden Redevelopment Area; and

**WHEREAS**, the Western/Ogden Redevelopment Plan permits the exercise of Transfer Rights with respect to Western/Ogden Increment and the Roosevelt/Racine Redevelopment Plan permits the receipt of Increment pursuant to Transfer Rights; and

**WHEREAS**, Borrower, Roosevelt Square Library LLC, an Illinois limited liability company ("**Manager**"), and a to-be formed corporation affiliated with Borrower ("**Related Co**", and together with Manager and Borrower, the "**Developer Parties**") will be obligated to undertake the Project in accordance with the terms and conditions of a proposed redevelopment agreement to be executed by the Developer Parties and the City, with such Project to be financed in part by certain pledged incremental taxes deposited from time to time in the Roosevelt/Racine Tax Increment Financing Redevelopment Project Area Special Tax Allocation

Fund for the Area (the "Roosevelt/Racine TIF Fund") pursuant to Section 5/11-74.4-8(b) of the Act ("Incremental Taxes"); and

**WHEREAS**, it is anticipated that the City may, in its discretion, exercise its Transfer Rights pursuant to the Act and the Roosevelt/Racine and Western/Ogden Redevelopment Plans to allocate and use a portion of Western/Ogden Increment as part of and not in addition to the City Funds (as defined below) for the Project; and

**WHEREAS**, pursuant to its Resolution 17-CDC-18, the CDC has recommended that the Borrower be designated as the developer for the Project and that DPD be authorized to negotiate, execute and deliver on behalf of the City a redevelopment agreement with the Borrower for the Project; now, therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO, AS FOLLOWS:**

**Section 1. Incorporation of Recitals.** The recitals contained in the preambles to this Ordinance are hereby incorporated into this Ordinance by this reference. All capitalized terms used in this Ordinance, unless otherwise defined herein, shall have the meanings ascribed thereto in the Bond Issuance Agreement.

**Section 2. Findings and Determinations.** The City Council hereby finds and determines that the delegations of authority that are contained in this Ordinance, including the authority to make the specific determinations described herein, are necessary and desirable because the City Council cannot itself as advantageously, expeditiously or conveniently exercise such authority and make such specific determinations. Thus, authority is granted to each hereinafter defined Authorized Officer to determine to sell the Bonds on such terms as and to the extent such officer determines that such sale or sales are desirable and in the best financial interest of the City. Any such designation and determination by an Authorized Officer shall be signed in writing by such Authorized Officer and filed with the City Clerk and shall remain in full force and effect for all purposes of this Ordinance unless and until revoked, such revocation to be signed in writing by an Authorized Officer and filed with the City Clerk.

**Section 3. Authorization of Bonds.** The issuance of the Bonds in an aggregate principal amount of not to exceed \$26,000,000 is hereby authorized. The aggregate principal amount of the Bonds to be issued, and their division into one or more series of Bonds, shall be as set forth in the Notification of Sale referred to Section 8 below.

The Bonds shall contain a provision that they are issued under authority of this Ordinance. The Bonds shall not mature later than three (3) years after the date of issuance thereof. The Bonds shall bear interest at a rate or rates not to exceed the lesser of twelve percent (12%) or the maximum rate of interest allowable under state law, payable on the interest payment dates as set forth in the Bond Issuance Agreement and in the Notification of Sale, provided that, subject to such limitation, the Bonds may bear interest at variable interest rates computed from time to time at such rates and on such basis as shall be determined by reference to an established market index as shall be identified in the Bond Issuance Agreement. The Bonds shall be dated, shall be subject to redemption prior to maturity, shall be payable in such places and in such manner and shall have such other details and provisions as are prescribed by the Bond Issuance Agreement, the form(s) of the Bonds therein and the Notification of Sale.

The provisions for execution, signatures, authentication, payment and prepayment, with respect to the Bonds shall be as set forth in the Bond Issuance Agreement and the form(s) of the Bonds therein.

Each of (i) the Mayor of the City (the "**Mayor**"), the (ii) Chief Financial Officer of the City (as defined below) or (iii) any other officer designated in writing by the Mayor (the Mayor, the Chief Financial Officer or any such other officer being referred to as an "**Authorized Officer**") is hereby authorized to execute and deliver the Bond Issuance Agreement on behalf of the City, in substantially the form attached hereto as **Exhibit B**, as determined in the Notification of Sale, and made a part hereof and hereby approved with such changes therein as shall be approved by the Authorized Officer executing the same, with such execution to constitute conclusive evidence of such officer's approval and the City Council's approval of any changes or revisions from the form of the Bond Issuance Agreement attached to this Ordinance.

As used herein, the term "**Chief Financial Officer**" shall mean the Chief Financial Officer of the City appointed by the Mayor, or, if there is no such officer then holding said office, the City Comptroller.

An Authorized Officer is hereby authorized to execute and deliver the Loan Agreement on behalf of the City, in substantially the form attached hereto as **Exhibit C**, and made a part hereof and hereby approved with such changes therein as shall be approved by the Authorized Officer executing the same, with such execution to constitute conclusive evidence of such Authorized Officer's approval and the City Council's approval of any changes or revisions from the form of the Loan Agreement attached to this Ordinance.

An Authorized Officer is hereby authorized to execute and deliver on behalf of the City such security or collateral documents securing payment of the Bonds as the Authorized Officer regards as appropriate, in substantially the form of the security documents used in previous issuances of tax-exempt bonds pursuant to programs similar to the Bonds, with appropriate revisions to reflect the terms and provisions of the Bonds and with such other revisions as the Authorized Officer executing the same shall determine are appropriate and consistent with the other provisions of this Ordinance. The execution of security or collateral documents by the Authorized Officer shall be deemed conclusive evidence of the approval of the City Council to the terms provided in such documents.

An Authorized Officer is hereby authorized to execute and deliver one or more Land Use Restriction Agreements on behalf of the City, in substantially the form attached hereto as **Exhibit D** and made a part hereof and hereby approved with such changes therein as shall be approved by the Authorized Officer executing the same, with such execution to constitute conclusive evidence of such officer's approval of any changes or revisions from the form of Land Use Restriction Agreement attached to this Ordinance.

An Authorized Officer is hereby authorized to execute and deliver the Tax Agreements on behalf of the City, in substantially the form of tax agreements used in previous issuances of tax-exempt bonds pursuant to programs similar to the Bonds, with appropriate revisions to reflect the terms and provisions of the Bonds and the applicable provisions of the Internal Revenue Code of 1986, as amended (the "**Code**"), and the regulations promulgated thereunder, and with such other revisions in text as the Authorized Officer executing the same shall determine are necessary or desirable in connection with the exclusion from gross income for federal income tax purposes of interest on the Bonds. The execution of the Tax Agreements

by the Authorized Officer shall be deemed conclusive evidence of the approval of the City Council to the terms provided in the Tax Agreements.

**Section 4. Security for the Bonds.** The Bonds shall be limited obligations of the City, payable from and/or secured by (i) a senior mortgage on and security interest in the leasehold estate in the Property, the Project and related collateral, (ii) certain funds pledged under the Bond Issuance Agreement, (iii) certain capital contributions to be made to the Borrower by its investor member(s) in accordance with the terms and conditions of the limited liability company operating agreement of the Borrower in connection with the allocation to the Borrower of federal low-income housing tax credits and certain other funds, personal property and contractual rights of the Borrower and its affiliates pledged and/or assigned to the Fiscal Agent (which may include all or a portion of the CHA Loan), (iv) all right, title and interest of the City (other than certain reserved rights of the City, as described in the Loan Agreement) in the Loan Agreement, and (v) the proceeds of the Bonds and income from the temporary investment thereof, as provided in the Bond Issuance Agreement. In order to secure the payment of the principal of, premium, if any, and interest on the Bonds, such rights, proceeds and investment income are hereby pledged to the extent and for the purposes as provided in the Bond Issuance Agreement and are hereby appropriated for the purposes set forth in the Bond Issuance Agreement. The Bond Issuance Agreement shall set forth such covenants with respect to the application of such rights, proceeds and investment income as shall be deemed necessary by the Authorized Officer in connection with the sale of the Bonds issued thereunder.

**Section 5. Limited Obligations.** The Bonds, when issued and outstanding, will be limited obligations of the City, payable solely as provided in the Bond Issuance Agreement. The Bonds and the interest thereon shall never constitute a debt or general obligation or a pledge of the faith, the credit or the taxing power of the City within the meaning of any Constitutional or statutory provision of the State of Illinois. The Bonds shall be payable solely from the funds pledged therefor pursuant to the terms of the Bond Issuance Agreement hereinafter described.

**Section 6. Assignment of Rights.** The right, title and interest of the City (except for certain rights to notice, involvement in certain discussions related to the Bonds, indemnification, and reimbursement) in, to and under the Loan Agreement, and the revenues to be derived by the City thereunder will be assigned to the Fiscal Agent under the Bond Issuance Agreement.

**Section 7. Sale and Delivery of Bonds.** Subject to the terms and conditions of the Bond Issuance Agreement and such additional terms as are set forth in the Notification of Sale with the approval of an Authorized Officer, the Bonds shall be sold and delivered to BMO Harris Bank N.A. or one or more of its affiliates ("**BMO Harris Bank**") as the purchaser of the Bonds, except that an Authorized Officer, following a formal written request by Borrower may select one or more additional or other purchaser(s) in place of BMO Harris Bank (the "**Purchaser**").

In connection with the offer and delivery of the Bonds, the Authorized Officer, and such other officers of the City as may be necessary, is authorized to execute and deliver such instruments and documents as may be necessary to implement the transaction and to effect the issuance and delivery of the Bonds. Any limitation on the amount of Bonds issued pursuant to this Ordinance as set forth herein shall be exclusive of any original issue discount or premium.

BMO Harris Bank or one of its affiliates may serve as fiscal agent under the Bond Issuance Agreement, except that an Authorized Officer may select another fiscal agent in place of BMO Harris Bank (the "**Fiscal Agent**") pursuant to the provisions of the Bond Issuance Agreement.

**Section 8. Notification of Sale.** Subsequent to the sale of any Bonds, the Authorized Officer shall file in the Office of the City Clerk a Notification of Sale for such Bonds directed to the City Council setting forth (i) the aggregate original principal amount of, maturity schedule, redemption provisions for and nature of each series of the Bonds sold, (ii) the identities of the Purchaser and the Fiscal Agent, (iii) the interest rates on the Bonds and/or a description of the method of determining the interest rate applicable to the Bonds from time to time, and (iv) any other matter authorized by this Ordinance to be determined by an Authorized Officer at the time of the sale of any Bonds. There shall be attached to such notification the final form of the Bond Issuance Agreement and the Loan Agreement.

**Section 9. Use of Proceeds.** The proceeds from the sale of the Bonds shall be deposited as provided in the Bond Issuance Agreement and used for the purposes set forth in the third paragraph of the recitals of this Ordinance.

**Section 10. Proxies.** Each Authorized Officer may designate another to act as their respective proxy and to affix their respective signatures to each Bond, whether in temporary or definitive form, and to any other instrument, certificate or document required to be signed by such Authorized Officer pursuant to this Ordinance or a Bond Issuance Agreement. In each case, each shall send to the City Council written notice of the person so designated by each, such notice stating the name of the person so selected and identifying the instruments, certificates and documents that such person shall be authorized to sign as proxy for the Mayor and the Authorized Officer, respectively. A written signature of the Mayor or the Authorized Officer, respectively, executed by the person so designated underneath, shall be attached to each notice. Each notice, with signatures attached, shall be recorded in the *Journal of Proceedings of the City Council of the City of Chicago* and filed with the City Clerk. When the signature of the Mayor is placed on an instrument, certificate or document at the direction of the Mayor in the specified manner, the same, in all respects, shall be as binding on the City as if signed by the Mayor in person. When the signature of the Authorized Officer is so affixed to an instrument, certificate or document at the direction of the Authorized Officer in the specified manner, the same, in all respects, shall be as binding on the City as if signed by the Authorized Officer in person.

**Section 11. Execution of Bonds.** The Bonds shall be executed by manual or facsimile signature of the Mayor of the City or the Authorized Officer, and the seal of the City shall be affixed or imprinted and attested to by the manual or facsimile signature of the City Clerk, as set forth in the Bond Issuance Agreement, and the same shall be delivered to the Fiscal Agent for proper authentication and delivery upon instructions to that effect.

**Section 12. Volume Cap.** The Bonds are obligations taken into account under Section 146 of the Code in the allocation of the City's volume cap.

**Section 13. Additional Authorization.** Each Authorized Officer, the City Treasurer, the Commissioner of the Department of Planning and Development (the "**Commissioner**") and a designee of the Commissioner (collectively with the Commissioner, the "**DPD Authorized Officer**"), and the City Clerk are each hereby authorized to execute and deliver such other documents and agreements, including, without limitation, any documents



necessary to evidence the receipt or assignment of any collateral for the Bonds from the Borrower, any escrow agreements, subordination agreements or intercreditor agreements that may be deemed necessary or desirable, and perform such other acts as may be necessary or desirable in connection with the Bonds, including, but not limited to, the exercise following the delivery date of the Bonds of any power or authority delegated to such official under this Ordinance with respect to the Bonds upon original issuance, but subject to any limitations on or restrictions of such power or authority as herein set forth.

**Section 14. Public Hearing.** This City Council hereby directs that the Bonds shall not be issued unless and until the requirements of Section 147(f) of the Code, including particularly the approval requirement following any required public hearing, have been fully satisfied, and that no contract, agreement or commitment to issue the Bonds shall be executed or undertaken prior to satisfaction of the requirements of said Section 147(f) unless the performance of said contract, agreement or commitment is expressly conditioned upon the prior satisfaction of such requirements. All such actions taken prior to the enactment of this Ordinance are hereby ratified and confirmed.

**Section 15. Severability.** 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 remaining provisions of this Ordinance.

**Section 16. Administrative Fee.** The Department of Planning and Development ("DPD") is hereby authorized to charge an administrative fee or fees in connection with the delivery and administration of the Bond Issuance Agreement and the Bonds, which shall be collected under such terms and conditions as determined by the DPD Authorized Officer and which shall be in an amount as determined by the DPD Authorized Officer but not to exceed the maximum amount permitted under Section 148 of the Code to avoid characterization of the Bond Issuance Agreement and the Bonds as "arbitrage bonds" as defined in Section 148. Such administrative fee or fees shall be used by DPD for administrative expenses and other housing activities. Initially, such administrative fee or fees shall be an amount equal to (i) 1.5% of the original principal amount of the Bonds payable upon issuance of the Bonds, plus (ii) an ongoing bond administrative fee of 15 basis points (0.0015%) of the outstanding principal amount, accruing monthly and payable semi-annually.

**Section 17. Reserve for Legal Expenses.** The City is authorized to assess and collect at the closing a fee of 10 basis points (0.0010%) of the aggregate principal amount of the Bonds, and to use such fee to pay for legal and other fees incurred by the City in connection with private activity bonds issued by the City.

**Section 18. No Recourse.** No recourse shall be had for the payment of the principal of, premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement contained in this Ordinance, the Bond Issuance Agreement, the Loan Agreement, the Land Use Restriction Agreement, or the Tax Agreements against any past, present or future officer, member or employee of the City, or any officer, employee, director or trustee of any successor, as such, either directly or through the City, or any such successor, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such member, officer, employee, director or trustee as such is hereby expressly waived and released as a condition of and consideration for the execution of the Bond Issuance Agreement, the Loan Agreement, the Land Use Restriction Agreement, and the Tax Agreements and the issuance of the Bonds.

**Section 19. Affordable Housing.** Section 2-45-115 of the Municipal Code of Chicago shall not apply to the Project or the Property.

**Section 20. Developer Designation.** The Developer Parties are hereby designated as the developer for the Project pursuant to Section 5/11-74.4-4 of the Act.

**Section 21. Redevelopment Agreement.** The DPD Authorized Officer is hereby authorized, with the approval of the City's Corporation Counsel as to form and legality, to negotiate, execute and deliver a redevelopment agreement between the Developer Parties and the City substantially in the form attached hereto as **Exhibit E** and made a part hereof (the "**Redevelopment Agreement**"), and such other supporting documents as may be necessary to carry out and comply with the provisions of the Redevelopment Agreement, with such changes, deletions and insertions as shall be approved by the persons executing the Redevelopment Agreement.

**Section 22. City Funds.** The City Council hereby finds that the City is authorized to pay \$7,000,000 ("**City Funds**") from Incremental Taxes deposited in the Roosevelt/Racine TIF Fund, including up to \$4,000,000 of Western/Ogden Increment upon exercise of the City's Transfer Rights, to Developer Parties to finance a portion of the eligible costs included within the Project. The proceeds of the City Funds are hereby appropriated for the purposes set forth in this section.

**Section 23. Roosevelt/Racine TIF Fund.** Pursuant to the Roosevelt/Racine TIF Ordinance, the City has created the Roosevelt/Racine TIF Fund. The Chief Financial Officer (or his or her designee) of the City is hereby directed to maintain the Roosevelt/Racine TIF Fund as a segregated interest-bearing account, separate and apart from the City's Corporate Fund or any other fund of the City. Pursuant to the Roosevelt/Racine TIF Ordinance, all Incremental Taxes received by the City for the Roosevelt/Racine Area shall be deposited into the Roosevelt/Racine TIF Fund. The City is authorized to exercise its Transfer Rights from the Western/Ogden TIF Fund into the Roosevelt/Racine TIF Fund in accordance with Section 22 above. The City shall use the funds in the Roosevelt/Racine TIF Fund to make payments pursuant to the terms of the Redevelopment Agreement.

**Section 24. Other Documents.** The Mayor, the Chief Financial Officer, the Comptroller, the City Clerk and the other officers of the City are authorized to execute and deliver on behalf of the City such other documents, agreements and certificates and to do such other things consistent with the terms of this ordinance as such officers and employees shall deem necessary or appropriate in order to effectuate the intent and purposes of this ordinance.

**Section 25. No Impairment.** To the extent that any ordinance, resolution, rule, order or provision of Chapter 16-18 of the Municipal Code, or part thereof, is in conflict with the provisions of this Ordinance, the provisions of this Ordinance shall be controlling. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance. No provision of the Municipal Code or violation of any provision of the Municipal Code shall be deemed to render voidable at the option of the City any document, instrument or agreement authorized hereunder or to impair the validity of this Ordinance or the instruments authorized by this Ordinance or to impair the rights of the owners of the Bonds to receive payment of the principal of or interest on the Bonds or to impair the security for the Bonds;

provided further that the foregoing shall not be deemed to affect the availability of any other remedy or penalty for any violation of any provision of the Municipal Code.

**Section 26. Inconsistent Provisions.** All ordinances, resolutions, motions or orders in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**Section 27. Effective Date.** This Ordinance shall be in full force and effect immediately upon its passage and approval.

**EXHIBIT A-1**

**Legal Description of the Property**

Legal description to come

PIN 17-17-322-009-0000

Address: 1328-50 West Taylor Street

**EXHIBIT A-2**  
**Financing Plan**

**1. The Bonds**, as described in this Ordinance.

Amount: Not to exceed \$26,000,000, as set forth in Section 3 of this Ordinance.

Term: Not to exceed three (3) years.

Interest: As set forth in the in the Bond Issuance Agreement and in the Notification of Sale.

Security: The Bonds will be secured by a pledge of cash and/or securities collateral in an adjusted amount not to exceed the amount of the CHA Loan and by a construction mortgage from the Borrower in favor of the Bondholder with a term of 30 months (the "**Bond Mortgage**"), as well as certain capital contributions to be made to the Borrower by its investor member, pursuant to the terms of the Bond Issuance Agreement. The Bond Mortgage will grant the holder of the Bonds secured thereby a mortgage on the leasehold estate in the Property and the Project that is senior in position subject to the terms of the CHA Regulatory and Operating Agreement. The Bond Mortgage may be refinanced for a term not to exceed 40 years, as acceptable to the DPD Authorized Officer.

**2. Low-Income Housing Tax Credit ("LIHTC") Proceeds**

Amount: Approximately \$9,948,000, or such amount as may be acceptable to the DPD Authorized Officer, all or a portion of which may be paid in on a delayed basis, and all or a portion of which will be applied to the payment of a portion of the Bonds upon the completion of construction of the Project.

Source: To be derived from the syndication of the LIHTCs generated by the Bonds.

**3. CHA Loan**

Amount: Not to exceed amount of approximately \$15,800,000, or such amount as may be acceptable to the DPD Authorized Officer, all or a portion of which will be applied to the payment of a portion of the Bonds.

Term: Not to exceed 42 years.

Source: CHA or another entity acceptable to the DPD Authorized Officer.

Interest: Zero percent per annum or such interest rate as may be acceptable to the DPD Authorized Officer.

Security: Mortgage on the leasehold estate in the Property and the Project, junior to the Bond Mortgage.

**4. CHA Donation Tax Credit Loan**

Amount: Approximately \$1,215,521, or such amount as may be acceptable to the DPD Authorized Officer.

Term: Not to exceed 42 years.

Source: Derived from the sale of the state donation tax credits issued by the City, or another source acceptable to the DPD Authorized Officer.

Interest: Zero percent per annum or such interest rate as may be acceptable to the DPD Authorized Officer.

Security: Mortgage on the leasehold estate in the Property and the Project, junior to the Bond Mortgage.

#### **5. Developer Loan**

Amount: Approximately \$400,000, or such amount as may be acceptable to the DPD Authorized Officer.

Term: Not to exceed 42 years.

Source: Taylor Street LA LLC, derived from proceeds of loan and/or grant funds in connection with the Project, or another source acceptable to the DPD Authorized Officer.

Interest: Zero percent per annum or such interest rate as may be acceptable to the DPD Authorized Officer.

Security: Mortgage on the leasehold estate in the Property and the Project, junior to the Bond Mortgage.

#### **6. Seller Loan**

Amount: Such amount as may be acceptable to the DPD Authorized Officer, not to exceed the appraised value of the leasehold interest in the Property.

Term: Not to exceed 42 years.

Source: Not-for-profit organization that obtains leasehold interest in the Property from CHA.

Interest: Long Term Applicable Federal rate as of the Closing Date, or such interest rate as may be acceptable to the DPD Authorized Officer

Security: Mortgage on the leasehold estate in the Property and the Project, junior to the Bond Mortgage.

#### **7. TIF Funds**

Amount: Approximately \$7,000,000, or such amount as may be acceptable to the DPD Authorized Officer.

Term: Not to exceed 42 years.

Source: Related Co, or another source acceptable to the DPD Authorized Officer.

Interest: Zero percent per annum, or such interest rate as may be acceptable to the DPD Authorized Officer.

Security: Mortgage on the leasehold estate in the Property and the Project, junior to the Bond Mortgage.

**EXHIBIT B**

**Form of Bond Issuance Agreement**

(See Attached)



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**BOND ISSUANCE AGREEMENT**

among

**CITY OF CHICAGO**

**BMO HARRIS BANK N.A.,**  
as Bondholder

and

**BMO HARRIS BANK N.A.,**  
as Fiscal Agent

Dated as of \_\_\_\_\_ 1, 2017

[\$[Principal]]  
City of Chicago  
Multi-Family Housing Revenue Bonds  
(Taylor Street Library and Apartments Project), Series 2017

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## BOND ISSUANCE AGREEMENT

This BOND ISSUANCE AGREEMENT, dated as of \_\_\_\_\_ 1, 2017 (this "Bond Issuance Agreement"), among the CITY OF CHICAGO, a municipal corporation and home rule unit of local government under the Constitution and laws of the State of Illinois (the "Issuer"), BMO HARRIS BANK N.A., a national banking association, as purchaser of the Bonds hereafter described (in such capacity, the "Bondholder"), and BMO HARRIS BANK N.A., a national banking association, as fiscal agent for the Bonds (in such capacity, the "Fiscal Agent"),

### WITNESSETH:

WHEREAS, by virtue of Section 6(a) of Article VII of the 1970 Constitution of the State of Illinois, the Issuer is a home rule unit of local government and as such may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, as a home rule unit and pursuant to the Constitution, the Issuer is authorized and empowered to issue multi-family housing revenue bonds for the purpose of financing the cost of acquiring, constructing, and renovating an affordable multi-family housing development for low- and moderate-income families located in the City; and

WHEREAS, the Issuer has determined to issue, sell and deliver the \$[Principal] Multi-Family Housing Revenue Bonds (Taylor Street Library and Apartments Project), Series 2017 (the "Bonds"), as provided herein, and to lend the proceeds thereof to [TBD], an Illinois limited partnership (the "Borrower"), for the purpose of financing a portion of the cost of acquiring, constructing, and equipping the Project (as hereinafter defined); and

WHEREAS, the Issuer and the Borrower have entered into the Loan Agreement (as hereinafter defined) providing for the loan of the proceeds of the Bonds to the Borrower for the purposes described in the preceding paragraph; and

WHEREAS, the Loan Agreement provides for the issuance by the Borrower of the Borrower Note (as hereinafter defined); and

WHEREAS, pursuant to the terms hereof, the Issuer will pledge and assign the Borrower Note and the Loan Agreement to the Bondholder; and

WHEREAS, the Bonds are secured by and payable from Revenues (as hereinafter defined) and the other security provided herein, including the Borrower Collateral Documents (as hereinafter defined); and

WHEREAS, it has been determined that the Bonds should be issued, sold and delivered, to provide funds in order to make loans to the Borrower to pay a portion of the cost of acquiring, constructing, and renovating the Project and related expenses; and

WHEREAS, all things necessary to make the Bonds, when authenticated by the Fiscal Agent and issued as provided in this Bond Issuance Agreement, the legal, valid and binding limited obligations of the Issuer according to the terms thereof, and to constitute this Bond Issuance Agreement a valid assignment and pledge of the amounts assigned and pledged to the

payment of the principal of and interest on the Bonds, and a valid assignment and pledge of the right, title and interest of the Issuer under the Loan Agreement (except that Issuer shall retain the Issuer Reserved Rights) and the Borrower Note, have been done and performed, and the creation, execution and delivery of this Bond Issuance Agreement, and the creation, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, THIS BOND ISSUANCE AGREEMENT WITNESSETH:

That the Issuer in consideration of the promises and the mutual covenants contained herein, and of the purchase and acceptance of the Bonds by the Bondholder, and of the sum of one dollar, in lawful money of the United States of America, to it duly paid by the Bondholder at or before the execution and delivery of these presents, and for other good and valuable consideration (the receipt, sufficiency and adequacy of which are hereby acknowledged), in order to secure the payment of the principal of and interest on the Bonds according to their tenor and effect, and in order to secure the performance and observance by the Issuer of all the covenants and conditions expressed or implied herein and in the Bonds, does hereby grant, bargain, sell, convey, assign and pledge, and grant a security interest in, the following described property (collectively, the "Security for the Bonds"), to the Bondholder, forever, to the extent provided in this Bond Issuance Agreement:

#### GRANTING CLAUSE FIRST

All right, title, interest and benefits of the Issuer in and to the Loan Agreement (except that Issuer shall retain the Issuer Reserved Rights) and the Borrower Note (including all extensions and renewals of the term thereof, if any), including, but without limiting the generality of the foregoing, the present and continuing right to make claim for, collect, receive and receipt for any of the income, revenues, issues and profits and other sums of money payable or receivable thereunder, whether payable in respect of the indebtedness thereunder or otherwise, to issue approvals, authorizations and directions, to receive notices, to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things that the Issuer is or may become entitled to do under the Loan Agreement and the Borrower Note, provided that the assignment made by this clause shall not impair or diminish any obligation of the Issuer under the Loan Agreement to the extent provided therein;

#### GRANTING CLAUSE SECOND

All moneys and securities of the Issuer from time to time held by the Fiscal Agent or by the Bondholder under the terms of this Bond Issuance Agreement, and any and all other real or personal property of every type and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred, as and for additional security hereunder, by the Issuer or by anyone on its behalf, or with its written consent, to the Fiscal Agent or the Bondholder, each of whom is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof; and

## GRANTING CLAUSE THIRD

All right, title and interest of the Issuer in and to the Borrower Collateral Documents, if any, including moneys and investments held pursuant thereto, subject to the provisions thereof permitting the use of funds held thereunder to or for the uses therein provided.

TO HAVE AND TO HOLD all and singular the Security for the Bonds, whether now owned or hereafter acquired, unto the Bondholder and its successors and assigns forever.

THIS BOND ISSUANCE AGREEMENT FURTHER WITNESSETH, and it is expressly declared, that the Bonds issued, from time to time, pursuant to the Ordinance and secured hereunder are to be issued, authenticated and delivered, and all said property, rights and interest, including, without limitation, the amounts hereby assigned and pledged, are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Issuer has agreed and covenanted, and does hereby agree and covenant with the Fiscal Agent and with the Bondholder as follows (subject, however, to the provisions of Section 2.08 hereof):

## ARTICLE I

### DEFINITIONS AND INTERPRETATIONS

Section 1.01. Definitions. Capitalized terms used in this Bond Issuance Agreement without definition shall have the respective meanings given to such terms in Section 1.1 of the Loan Agreement and in Exhibit A attached hereto and made a part hereof, unless the context or use clearly indicates another or different meaning or intent.

Section 1.02. Interpretation. In this Bond Issuance Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(i) the words “hereby,” “hereof,” “herein,” “hereunder” and any similar words used in this Bond Issuance Agreement refer to this Bond Issuance Agreement as a whole and not to any particular Article, Section or other subdivision, the word “heretofore” shall mean before, the word “hereafter” shall mean after, the date of this Bond Issuance Agreement, and the word “including” shall mean “including, without limitation;”

(ii) all accounting terms not otherwise defined herein shall have the meanings assigned to them in accordance with generally accepted accounting principles;

(iii) any headings preceding the text of the several Articles and Sections of this Bond Issuance Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall neither constitute a part of this Bond Issuance Agreement nor affect its meaning, construction or effect;

(iv) words importing the redemption or redeeming of the Bonds or the calling of the Bonds for redemption do not include or connote the payment of the Bonds at their stated maturity or the purchase of the Bonds;

(v) any certificate, letter or opinion required to be given pursuant to this Bond Issuance Agreement shall mean a signed document attesting to or acknowledging the circumstances, representations, opinions of law or other matters therein stated or set forth, or setting forth matters to be determined pursuant to this Bond Issuance Agreement; and

(vi) the recitals and granting clauses appearing above are an integral part hereof and are fully incorporated herein by this reference.

## ARTICLE II

### BONDS

Section 2.01. Authorization of Bonds. The Bonds shall be issued, from time to time, under the provisions of this Bond Issuance Agreement in accordance with this Article.

Section 2.02. Issuance of Bonds; Payments. (a) The Bonds shall be designated "City of Chicago Multi-Family Housing Revenue Bonds (Taylor Street Library and Apartments Project), Series 2017," and shall be issued in substantially the form of Exhibit B hereto. The Bonds shall mature on the Maturity Date, shall bear interest on disbursed amounts from the respective dates of disbursement, and shall be issuable only as a registered bond without coupons. The Bonds shall be lettered and numbered R-1.

Principal of the Bonds shall be advanced in the amount of [\$50,000] on the Closing Date. Principal of the Bonds thereafter shall be disbursed by the Bondholder in multiple advances over time as provided in Articles IX, X and XI of the Loan Agreement. The amount of Bonds actually issued may not exceed the limitation set forth in Section 9.2(b) of the Loan Agreement.

(b) The Bonds shall be dated the Closing Date. Any Bond issued in substitution therefor at any time thereafter shall be dated its respective date of delivery.

(c) Except to the extent that the provisions of Article III or Section 7.02 hereof with respect to redemption or acceleration prior to maturity may become applicable hereto, the Bonds shall mature as to principal as provided above.

(d) All payments on the Bonds shall be first applied to interest on the unpaid principal balance and then to the unpaid principal balance. No repayment of principal of or interest on the Bonds may be re-advanced by the Bondholder. The Bondholder shall make all notations upon the Bonds or in the Bondholder's books and records as provided in Section 2.3(c) of the Loan Agreement.

(e) The principal of and interest on the Bonds shall be payable in lawful money of the United States of America. Such principal and interest shall be payable at the principal office of the Bondholder or as otherwise directed in writing by the Bondholder.

(f) The Maturity Date shall be \_\_\_\_\_ 1, 2020 [30 months from closing], subject to extension as provided below. The Maturity Date may be extended on a one time basis

for six months until \_\_\_\_\_ 1, 2020 [36 months from closing] upon the occurrence of the following:

(i) the Borrower shall have made a written request to the Bondholder at least 30 days and not more than 90 days prior to \_\_\_\_\_ 1, 2020 to extend the Maturity Date for six months to the date specified above;

(ii) there shall not exist any Default or Event of Default at the time of the extension request or at the time of the extension;

(iii) the Project is Complete within the meaning of Section 7.11(b) of the Loan Agreement;

(iv) the Borrower and the Guarantors are in compliance with all financial covenants set forth in the Loan Agreement or the Borrower Collateral Documents, as applicable, as reflected in the most recent financial statements of the Borrower and the Guarantors provided pursuant to the Loan Agreement or Borrower Collateral Documents and there shall have been no material adverse change in the business or financial condition of the Borrower or the Guarantors;

(v) the Borrower pays to the Bondholder (x) an extension fee equal to one quarter of one percent (0.25%) of the outstanding amount under the Borrower Note and (y) all out-of-pocket expenses associated with the extension;

(vi) all applicable regulatory requirements, including appraisal requirements, shall have been satisfied with respect to the extension; and

(vii) (1) the extension shall have been documented to the satisfaction of the Bondholder; and (2) the Bondholder shall have received updated title coverage (if requested) and endorsements and UCC, judgment and lien searches satisfactory to it.

Section 2.03. Interest Rates on Bonds. (a) During the Initial Period, the unpaid portion of the principal amount of the Bonds that has been advanced shall bear interest at the Initial Period Interest Rate [*may be adjustment if Permanent Interest Rate begins earlier*]. During the Permanent Period, the unpaid portion of the principal amount of the Bonds shall bear interest at the Permanent Interest Rate [*may be adjustment for earlier start to Permanent Interest Rate*]. Interest on the outstanding principal balance of the Bonds shall be calculated by multiplying (a) the actual number of days elapsed in the period for which the calculation is being made by (b) a daily rate based on a 360-day year (that is, the Initial Period Interest Rate, the Permanent Interest Rate or the Past Due Rate, as then applicable, expressed as an annual rate divided by 360) by (c) the outstanding principal balance. The parties acknowledge this will result in a higher rate of interest than if interest were calculated based on a 365-366 day year and waives any right to object to said basis of calculation. The accrual period for calculating interest due on each Interest Payment Date shall be the calendar month immediately prior to such Interest Payment Date.

(b) [Reserved.]



(c) Past Due Rate. If any amount payable by the Borrower under the Loan Agreement or the Borrower Note is not paid when due (without regard to any applicable grace periods), such amount shall thereafter bear interest at the Past Due Rate to the fullest extent permitted by applicable law. Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable on demand, at the Past Due Rate.

Section 2.04. Payment Dates.

(a) Interest Payment Dates. Interest on disbursed amounts under the Bonds and the Borrower Note shall be payable monthly commencing on the first Business Day of each calendar month following the Closing Date on any date of redemption and on the Maturity Date.

(b) Principal Payment Dates. Principal of the Bonds and the Borrower Note shall not amortize and shall not be paid on a scheduled basis; provided that the Bonds and the Borrower Note shall be subject to redemption and acceleration as provided herein. Principal under the Bonds and the Borrower Note, shall be payable on the Maturity Date (in an amount equal to the unpaid principal amount outstanding).

Section 2.05. Interest on Amounts Past Due. Notwithstanding anything in this Article II to the contrary, if the Issuer shall fail to make any of the payments required to be made by it under this Bond Issuance Agreement, including, without limitation, any mandatory redemption required by Section 3.02 of this Bond Issuance Agreement, or under the Bonds, such payment shall continue as an obligation of the Issuer until the unpaid amount overdue shall have been fully paid and interest on the principal amount of the Bonds so overdue shall continue to accrue at the applicable Past Due Rate, from the date such payment was due until the date such payment is made or the date the Bonds have been repaid in full, whichever is earlier.

Section 2.06. Transfers of Bonds. The Bonds may be transferred in whole, and not in part, but only to a single Qualified Transferee that is reasonably acceptable to the Issuer, which Qualified Transferee shall execute and deliver to the Issuer a letter in the form of the Qualified Transferee letter attached hereto as **Exhibit D**; all of the Bonds shall be so transferred if any of the Bonds are so transferred. Successive transfers of the Bonds are permitted, subject to the limitations set forth in this Section. Notwithstanding the foregoing, the Bondholder may sell participating interests in the Bonds in accordance with applicable law.

Section 2.07. Funding Losses. As provided in the Loan Agreement, the Borrower will indemnify the Bondholder upon demand against any loss or expense, including, without limitation, reasonable attorneys' fees and expenses, which the Bondholder may sustain or incur (including, without limitation, any loss or expense sustained or incurred in obtaining, liquidating or employing deposits or other funds acquired to effect, fund or maintain the Loan and/or the Bonds) as a consequence of any failure of Borrower to make any payment when due of any amount due hereunder. Determinations by the Bondholder for purposes of this Section of the amount required to indemnify the Bondholder shall be conclusive in the absence of manifest error.

Section 2.08. Execution; Limited Obligation. (a) The Bonds shall be executed on behalf of the Issuer with the manual or facsimile signature of its Mayor and shall be

acknowledged by the manual or facsimile signature of the City Clerk of the Issuer, and the seal of the Issuer shall be impressed, imprinted or reproduced thereon. In case any officer whose signature shall appear on the Bonds shall cease to be such officer before the delivery of the Bonds, such signature shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery. The Bonds may be signed on behalf of the Issuer by such persons who, at the time of the execution of the Bonds, are duly authorized or hold the appropriate offices of the Issuer, although on the date of the Bonds such persons were not so authorized or did not hold such offices.

(b) THE BONDS AND THE INTEREST THEREON CONSTITUTE SPECIAL, LIMITED OBLIGATIONS OF THE ISSUER, PAYABLE SOLELY FROM THE PAYMENTS TO BE MADE BY THE BORROWER UNDER THE LOAN AGREEMENT OR FROM THE OTHER SOURCES SPECIFIED OR REFERRED TO IN THIS BOND ISSUANCE AGREEMENT, ALL OF WHICH ARE SPECIFICALLY ASSIGNED AND PLEDGED TO SUCH PURPOSES IN THE MANNER AND TO THE EXTENT PROVIDED HEREIN. THE BONDS AND ALL OTHER OBLIGATIONS OF THE ISSUER IN CONNECTION THEREWITH DO NOT CONSTITUTE A DEBT OF THE ISSUER, THE STATE OF ILLINOIS OR ANY POLITICAL SUBDIVISION THEREOF, AND NEITHER THE ISSUER NOR THE STATE OF ILLINOIS OR ANY POLITICAL SUBDIVISION THEREOF, SHALL BE LIABLE THEREON, NOR IN ANY EVENT SHALL THE BONDS OR OTHER OBLIGATIONS BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE PLEDGED UNDER THIS BOND ISSUANCE AGREEMENT. THE BONDS SHALL NOT CONSTITUTE AN INDEBTEDNESS OF THE ISSUER, THE STATE OF ILLINOIS OR ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT PROVISION.

Section 2.09. Authentication. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Issuance Agreement unless and until a certificate of authentication on such Bond, substantially in the form herein set forth, shall have been duly executed by the Fiscal Agent, and such executed certificate of the Fiscal Agent upon a Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Bond Issuance Agreement. The Fiscal Agent's certificate of authentication on a Bond shall be deemed to have been executed by it if manually signed by an authorized signatory of the Fiscal Agent.

Section 2.10. Form of the Bonds and Temporary Bonds. (a) The Bonds, and the Fiscal Agent's certificates of authentication to be endorsed thereon, shall be in substantially the form herein set forth, with such variations, omissions and insertions as are permitted or required by this Bond Issuance Agreement. The Bonds shall provide that the principal thereof and interest thereon shall be payable only out of Revenues.

(b) A Bond may be initially issued in temporary form exchangeable for a definitive Bond when ready for delivery. Each temporary Bond shall be in the same denomination as the Bond it is issued in lieu of, and such temporary Bond may contain such reference to any of the provisions of this Bond Issuance Agreement as the Issuer may deem appropriate. Every temporary Bond shall be executed by the Issuer and shall be authenticated by the Fiscal Agent upon the same conditions, and in substantially the same manner, as the definitive Bond it is

issued in lieu of. If the Issuer issues a temporary Bond in lieu of a definitive Bond, the Issuer shall execute and furnish the definitive Bond without delay, and thereupon the temporary Bond shall be surrendered for cancellation in exchange therefor at the Designated Office of the Fiscal Agent, and the Fiscal Agent shall authenticate and deliver in exchange for such temporary Bond a definitive registered Bond of the same series and maturity, and in the same denomination bearing the same interest rate. Until so exchanged, the temporary Bond shall be entitled to the same benefits under this Bond Issuance Agreement as the definitive Bond it is issued in lieu of, but only to the extent that such temporary Bond is authenticated and delivered hereunder.

Section 2.11. Delivery of the Bonds. (a) Upon (i) receipt by the Issuer of a duly executed Initial Investor Letter from the Bondholder, (ii) the execution and delivery of this Bond Issuance Agreement, the Loan Agreement, the Bonds, the Borrower Note, the Borrower Collateral Documents and the Tax Certificate and the delivery of the Security for the Bonds, (iii) the execution, delivery and recording of the Land Use Restriction Agreement, and the receipt by the Issuer of evidence of the priority of the Land Use Restriction Agreement over the Borrower Collateral Documents, (iv) delivery by the Issuer to the Fiscal Agent of a copy of the Ordinance, certified by the Issuer to be in full force and effect, and (v) receipt by the Issuer of an opinion of Bond Counsel to the effect that the Bonds have been duly authorized and issued, and that interest thereon is excluded from gross income of the owners thereof for Federal income tax purposes, the Issuer shall execute and deliver to the Fiscal Agent and the Fiscal Agent shall authenticate the Bonds and deliver the Bonds to the Bondholder as directed by the Issuer.

(b) Advances of proceeds under the Bonds shall be paid by the Bondholder over to the Fiscal Agent as received from time to time and deposited in the Construction Fund pursuant to Article IV hereof. Promptly following the approval by the Bondholder of each written request for a disbursement of Bond proceeds in accordance with the provisions of the Loan Agreement, the Bondholder shall advance to the Fiscal Agent sufficient moneys to permit the Fiscal Agent to make the approved disbursement in question (taking into account for such purpose any available moneys in the Construction Fund that were previously advanced under paragraph (c) of this Section 2.11 and not yet disbursed).

Section 2.12. Mutilated, Lost, Stolen or Destroyed Bonds. In the event any Bond is mutilated, lost, stolen or destroyed, the Issuer may execute, and the Fiscal Agent shall authenticate and deliver, a new Bond of like date, maturity, series, interest rate and denomination as the Bond mutilated, lost, stolen or destroyed. In each such case, the applicant for a substitute Bond shall furnish to the Issuer and the Fiscal Agent such security or indemnity as may be required by them to save each of them harmless. In each case of loss, theft or destruction, the applicant shall furnish to the Issuer and the Fiscal Agent evidence to their satisfaction of the loss, theft or destruction of such Bond and of the ownership thereof, and in each case of the mutilation of any Bond, the applicant shall surrender the mutilated Bond to the Fiscal Agent. Upon the issuance of a substitute Bond, the Issuer and the Fiscal Agent may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses and fees connected therewith. In the event any Bond has matured or is about to mature and is mutilated, lost, stolen, or destroyed, the Issuer may, instead of the issuing a substitute Bond as permitted by this Section, pay or authorize the payment of the same upon satisfaction of the conditions set forth above.

Section 2.13. Bond Registrar; Registration Books; Persons Treated as Bondholder; Restrictions on Transfer. (a) The Fiscal Agent, which is hereby constituted and appointed the Bond Registrar of the Issuer, shall keep books for the registration and transfer of the Bonds, as provided in this Bond Issuance Agreement. Upon surrender for transfer of the Bonds at the Designated Office of the Fiscal Agent, duly endorsed by, or accompanied by a written instrument or instruments of transfer in form satisfactory to the Fiscal Agent and duly executed by the registered owner or his attorney duly authorized in writing, and accompanied by a Qualified Transferee Letter executed by the party to whom the Bonds are to be transferred, the Issuer shall execute, and the Fiscal Agent shall authenticate and deliver in the name of the transferee, new Bonds of the same series, interest rates and maturities for like principal amounts. No Bond may be transferred in part, and all Bonds shall be transferred as a whole, so at all times there is but one registered owner of all of the Bonds issued and outstanding hereunder; provided that the Bondholder may, subject to applicable law, transfer participations in the Bonds. Upon the making of any such transfer, the transferor may assign to the transferee its interests in, to and under the Borrower Note and the Borrower Collateral Documents, and in the event of any such assignment, the transferor shall notify the Issuer and the Borrower of such assignment.

(b) Any exchange of a temporary Bond for a definitive Bond shall be without charge, except for the payment of any tax, fee or other governmental charge. With respect to any other exchange or transfer, the Fiscal Agent may charge a sum not exceeding the actual cost (if any) of printing new Bonds to be issued upon such exchange or transfer, together with reasonable expenses of the Fiscal Agent in connection therewith. In each case the Fiscal Agent shall require the payment by the registered owner of the Bond requesting exchange, registration or transfer, of any tax, fee or other governmental charge required to be paid with respect to such exchange, registration or transfer. All Bonds surrendered upon exchange or transfer provided for in this Bond Issuance Agreement shall be promptly cancelled by the Fiscal Agent and thereafter disposed of in accordance with Section 2.14 hereof.

(c) The Person in whose name the Bonds shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of principal thereof or interest thereon, shall be made only to or upon the order of the registered owner thereof or his legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon the Bonds to the extent of the sum or sums so paid.

Section 2.14. Cancellation of Bonds. Whenever any Bond shall be delivered to the Fiscal Agent for cancellation pursuant to this Bond Issuance Agreement, upon payment of the principal and interest represented thereby, or for replacement, transfer or exchange pursuant to Section 2.13 hereof, such Bond shall be promptly cancelled and destroyed by the Fiscal Agent, and a certificate as to such cancellation and destruction shall be furnished by the Fiscal Agent to the Issuer and the Borrower.

Section 2.15. Conditions to Bondholder's Purchase of Bonds. The Bondholder's obligation to purchase and accept the delivery of the Bonds is expressly conditioned upon the following:

(a) No Event of Default or Default shall exist hereunder;

(b) The representations and warranties of the Issuer contained herein and in the Loan Agreement shall not prove to be incorrect or misleading in any material respect;

(c) The Bondholder shall have received an opinion of Bond Counsel in form acceptable to Bondholder to the effect that the interest payable on the Bonds is excludable from the Federal gross income of the Bondholder;

(d) the Bondholder shall have received all of the Borrower Collateral Documents in form acceptable to Bondholder;

(e) the conditions precedent to the first disbursement of the proceeds of the Loan set forth in Articles X and XI of the Loan Agreement have been satisfied; and

(f) the Bondholder shall have received payment of its transaction fees relating to the purchase of the Bonds equal to one-half of one percent (0.5%) of the authorized principal amount of the Bonds.

(g) the conditions precedent to the Bondholder's purchase of the Bonds set forth in the Summary of Terms and Conditions dated \_\_\_\_\_, 2017 between the Bondholder and the Borrower, as amended, shall have been met to the satisfaction of the Bondholder (or been waived by the Bondholder). The Bondholder's purchase of the Bonds shall establish conclusively that these conditions have been met.

### **ARTICLE III**

#### **REDEMPTION OF BONDS BEFORE MATURITY**

Section 3.01. Optional Redemption. The Bonds are subject to optional redemption prior to maturity on any Business Day by the Issuer pursuant to the request of the Borrower in accordance with Section 3.1(a) of the Loan Agreement, in whole or in part (and, if in part, at the direction of the Borrower as to the principal amount to be redeemed), at a redemption price of 100% of the principal amount thereof being redeemed, without premium, plus accrued interest to the date fixed for redemption. To effect such redemption, the Borrower shall give written notice to the Bondholder and the Issuer not less than 2 Business Days prior to the applicable redemption date. The Borrower may withdraw any such notice, and revoke the election made therein, by giving written notice of such withdrawal and revocation to the Bondholder and the Issuer on or before the date fixed for redemption. Any partial redemption of the Bonds shall be applied pro rata amongst all principal amortization payments, except as otherwise agreed by the Borrower and the Bondholder.

Section 3.02. Mandatory Redemption. The Bonds are subject to mandatory redemption prior to maturity on any Business Day by the Issuer in whole or in part, at a redemption price of 100% of the principal amount thereof being redeemed plus accrued interest to the date fixed for redemption, and without premium, upon the occurrence of any of the events set forth below:

(a) Within 15 days following the Completion Date, to the extent of any excess amounts on deposit in the Construction Fund or the Construction Escrow on the Completion

Date which are not set aside for the payment of Costs of the Project not then due and payable (as provided in Section 9.4 of the Loan Agreement);

(b) to the extent the Owner Collateral Documents provide that the proceeds of any insurance or condemnation payment received with respect to the Project be applied to the prepayment of the Borrower Note and the redemption of Bonds;

(c) [Upon receipt, from time to time, of the following amounts (i) the equity contributions made by the Investor Member under the Operating Agreement in the amount of \$\_\_\_\_\_, (ii) CHA funds on deposit in the Cash Collateral Fund established under the Cash Collateral Agreement in the amount of \$\_\_\_\_\_, (iii) \$\_\_\_\_\_ from the proceeds of the CHA Loan, (iv) \$\_\_\_\_\_ from the CHA Donation Tax Credit Loan and, (v) \$\_\_\_\_\_ from the TIF Funds];

(d) in whole, within 30 days following the occurrence of a Determination of Taxability.

If for any reason the redemption under (c) above does not occur because the conditions for receipt of one or more of such payments have not been met, all proceeds of the \_\_\_\_\_ equity contributions made by the Investor Member under the Operating Agreement and CHA funds on deposit under the Cash Collateral Agreement shall nevertheless be applied to a partial redemption of the Bonds in the amount of such contribution.

## ARTICLE IV

### REVENUES AND FUNDS

Section 4.01. Revenues; Payment Notations. (a) The Fiscal Agent is authorized and directed, subject to Section 7.06 of this Bond Issuance Agreement, to apply all available Revenues to the payment of the principal of and interest on the Bonds as and when received, including, without limitation, (i) any amount in the Construction Fund, the Construction Escrow or the escrow account referred to in Section 9.4 of the Loan Agreement, in either case to the extent provided in such Section; (ii) all payments specified in Section 2.2 (a) of the Loan Agreement, including, without limitation, payments on the Borrower Note and amounts applied to payment of the Borrower Note under the Borrower Collateral Documents; (iii) all prepayments specified in Article III of the Loan Agreement, including, without limitation, prepayments made on the Borrower Note; and (iv) all other moneys received by the Bondholder under and pursuant to any of the provisions of the Loan Agreement that are required or are accompanied by directions that such moneys are to be applied to the payment of the principal of and interest on the Bonds. Except as otherwise directed in Article III hereof, all Revenues shall be applied (i) first, to the payment of interest on the Bonds, and (ii) second to the payment of principal of the Bonds.

(b) Subject to Section 2.08 hereof, the Issuer hereby covenants and agrees that as long as the Bonds are outstanding it will pay, or cause to be paid, to the Bondholder, sufficient sums from Revenues promptly to meet and pay the principal of and interest on the Bonds as the

same become due and payable. Nothing herein shall be construed as requiring the Issuer to use any funds or revenues from any source other than Revenues.

(c) The Fiscal Agent shall note on the payment record attached as Schedule A to the Bonds, or in the Fiscal Agent's books and records relating to the Bonds, the date and amount of (i) each draw increasing the principal amount of the Bonds, and (ii) each payment of principal (whether at maturity or upon acceleration or prior redemption) and/or interest on the Bonds. The information so recorded shall be rebuttable presumptive evidence of the accuracy thereof. The failure to so record any such information or any error in so recording any such information shall not, however, limit or otherwise affect the obligations of the Issuer hereunder or under the Bonds to repay the principal amount thereof together with all interest accruing thereon.

Section 4.02. Creation of Construction Fund; Disbursements. (a) There is hereby created by the Issuer and ordered established with the Fiscal Agent a Fund in the name of the Issuer to be designated "Taylor Street LA LLC Construction Fund (the "Construction Fund"). Advances of Bond proceeds by the Bondholder shall be deposited in the Construction Fund; provided that advances of Bond proceeds used to pay interest on the Bonds shall be paid or credited directly to the Bondholder as payment of such interest.

(b) The Issuer hereby authorizes and directs the Fiscal Agent to use the moneys in the Construction Fund, pursuant to written requests therefor submitted by the Borrower (except as otherwise provided in Section 4.04 hereof), and approved in writing by the Bondholder, for payment of the Costs of the Project, and for payment of principal of and interest on the Bonds in accordance with Sections 3.02 and 4.01 hereof and Articles IX, X and XI of the Loan Agreement. The Fiscal Agent shall keep and maintain adequate records pertaining to the Construction Fund and all disbursements therefrom, and shall promptly, following a written request therefor, submit to the Issuer, the Borrower or the Bondholder copies of all reports, statements of receipts and disbursements and the like relating to the Construction Fund and any other funds held by the Fiscal Agent under this Bond Issuance Agreement. Moneys remaining in the Construction Fund when the Project is Complete shall be applied to redeem Bonds pursuant to Section 3.02(a) of this Bond Issuance Agreement. Disbursements may be made monthly on the first day of each month.

(c) Upon the occurrence of an Event of Default under Section 12.1(f) of the Loan Agreement, or a declaration of acceleration following the occurrence of any Event of Default hereunder, or a redemption in whole of the Bonds, any moneys remaining in the respective accounts of the Construction Fund shall be used to pay the principal and interest then due and unpaid on the Bonds.

(d) Future advances of Bond proceeds may be made to fund interest on the Bonds on each Interest Payment Date prior to the Completion Date, but only upon receipt by the Issuer and the Fiscal Agent of a certification from the Borrower that the amount so advanced represents interest chargeable to the Borrower's capital account for federal tax law purposes. Any amounts so advanced shall be applied to pay interest on the Bonds as it next comes due. Advances of Bond proceeds to pay interest on the Bonds shall not be subject to any other disbursement requirements or conditions set forth in the Loan Agreement, except for the overall condition on the amount of total disbursements set forth in Section 9.2(b) of the Loan Agreement.

(e) Notwithstanding the foregoing, the Bondholder may elect to deposit advances directly into the Construction Escrow created under the Construction Escrow Agreement (and thereby bypass deposits into the Construction Fund entirely); provided that no such election shall obviate the need for the Borrower to comply with the disbursement conditions hereunder and under the Loan Agreement, including, without limitation, the delivery of a Disbursement Request.

Section 4.03. Fiscal Agent's Fees, Charges and Expenses. The Fiscal Agent agrees that the Issuer shall have no liability for any fees, charges and expenses of the Fiscal Agent, and the Fiscal Agent agrees to look only to the Borrower for the payment of all reasonable fees, charges and expenses of the Fiscal Agent as provided in the Loan Agreement and in this Bond Issuance Agreement.

Section 4.04. Moneys to be Held in Trust. All moneys required to be deposited with or paid to the Fiscal Agent for the account of the Construction Fund or the escrow account referred to in Section 9.4 of the Loan Agreement under any provision of this Bond Issuance Agreement or the Loan Agreement shall be held by the Fiscal Agent in trust and applied for the purposes herein or therein specified. No Person not a party hereto shall have any rights to the money in the Construction Fund or the escrow account referred to in Section 9.4 of the Loan Agreement.

Section 4.05. Repayment of Excess Moneys. Any amounts remaining in any fund, or otherwise paid to the Fiscal Agent on behalf of the Issuer under this Bond Issuance Agreement or the Loan Agreement, after payment in full of the principal of and interest on the Bonds, the fees, charges and expenses of the Issuer and the Fiscal Agent, and all other amounts required to be paid under this Bond Issuance Agreement and the Loan Agreement shall be paid (a) first, to the Issuer to the extent of any moneys owed by the Borrower to the Issuer, and (b) second, to the Borrower.

Section 4.06. Cash Collateral Agreement. Reference is hereby made to the Cash Collateral Agreement. Moneys held under the Cash Collateral Agreement shall be applied to pay the principal of and interest on the Bonds as provided therein and in Section 3.02(c) herein.

Section 4.07. Security Agreement. Reference is hereby made to the Security Agreement. Moneys held under the Security Agreement shall be available to pay the principal of and interest on the Bonds as provided in the Security Agreement.

## ARTICLE V

### INVESTMENT OF MONEYS

Section 5.01. Investment of Moneys. Any moneys held as part of any Account of the Construction Fund, to the extent not disbursed on the date of deposit therein, shall be invested or reinvested by the Fiscal Agent in Eligible Investments in accordance with the provisions of Section 9.6 of the Loan Agreement. The direction and written confirmation specified in Section 9.6 of the Loan Agreement shall specify to the extent applicable the issuer or obligor, the principal amount, maturity date and interest rate of each such Eligible Investment. All such Eligible Investments shall be held by or under the control of the Fiscal Agent and shall be



deemed at all times a part of such Account, and the interest accruing thereon, if any, and any profit realized from such Eligible Investments shall be credited to such Account. Any loss resulting from such investments shall be charged to such Account. The Fiscal Agent shall be entitled to rely conclusively on all written investment instructions provided by the Borrower pursuant to Section 9.6 of the Loan Agreement, and the Fiscal Agent shall have no responsibility or liability for any depreciation in the value of any investment or for any loss, direct or indirect, resulting from any investment made in accordance with such direction and written confirmation from the Borrower specified in Section 9.6 of the Loan Agreement.

Section 5.02. Investments through Fiscal Agent's Investment Department. The Fiscal Agent may make any and all investments permitted by the provisions of Sections 5.01 through its own investment department or that of an affiliate. Upon the written direction of the Borrower or the Issuer, the Fiscal Agent shall confirm in writing any investment made with the moneys in the Construction Fund. The Fiscal Agent shall answer all reasonable inquiries from the Borrower or the Issuer as to the status of moneys in each of such Fund or account. The Fiscal Agent shall file with the Issuer a copy of its statements that it delivers to the Borrower with respect to the investment of any funds held under this Bond Issuance Agreement.

## ARTICLE VI

### GENERAL COVENANTS OF ISSUER

Until payment in full of the Bonds, the Issuer covenants and agrees that each of the covenants, undertakings and agreements set forth in this Section shall be complied with:

Section 6.01. Payment of Principal and Interest. The Issuer covenants that it will promptly pay the principal of and interest on the Bonds at the place, on the dates and in the manner provided herein and in the Bonds according to the true intent and meaning hereof and thereof; provided, however, that the Bonds shall be a special, limited obligation of the Issuer payable as to principal and interest solely from the Revenues as provided in Section 2.08 of this Bond Issuance Agreement.

Section 6.02. Performance of Covenants. The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations of and provisions applicable to the Issuer contained in this Bond Issuance Agreement and in the Bonds; provided, however, that the Issuer shall not be obligated to take any action or execute any instrument pursuant to any provision hereof until it shall have been requested to do so by the Borrower or the Bondholder, and, at the option of the Issuer, until it shall have received from the Borrower or the Bondholder assurance satisfactory to the Issuer that the Issuer shall be reimbursed for its reasonable expenses incurred or to be incurred in connection with taking such action or executing such instrument. The Issuer represents that it is duly authorized pursuant to the Ordinance to issue the Bonds, to execute this Bond Issuance Agreement, to pledge and assign the Loan Agreement, the Borrower Note and the Security for the Bonds, and the amounts payable under the Loan Agreement, the Borrower Note and the Security for the Bonds, in the manner and to the extent set forth herein; that all action on its part required for the issuance of the Bonds and the execution and delivery of this Bond Issuance Agreement has been duly and effectively taken; and that each of the Bonds in the hands of the Bondholder is and will be a valid and enforceable

obligation of the Issuer according to the terms thereof and hereof. Anything contained in this Bond Issuance Agreement to the contrary notwithstanding, it is hereby understood that none of the covenants of the Issuer contained in this Bond Issuance Agreement are intended to create a pecuniary obligation of the Issuer with respect to payment of principal of and interest on the Bonds.

Section 6.03. Assigned Rights; Instruments of Further Assurance. The Issuer represents that the pledge and assignment of the Security for the Bonds to the Bondholder hereby made is valid and lawful. The Issuer covenants that it will defend its interest in and to the Loan Agreement, the Borrower Note, the Security for the Bonds and the Revenues, and the pledge and assignment thereof to the Bondholder, against the claims and demands of all Persons whomsoever; provided, however, that all reasonable attorneys' fees and expenses incurred by the Issuer in the performance of its obligations under this covenant shall be paid by the Borrower. The Issuer covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such agreements supplemental hereto and such further acts, instruments and transfers as the Bondholder may reasonably require for the better assuring, transferring, conveying, pledging, assigning and confirming unto the Bondholder of the Loan Agreement, the Borrower Note, the Security for the Bonds and the Revenues, the rights pledged and assigned hereby, and the amounts pledged to the payment of the principal of and interest on the Bonds; provided, however, that the Issuer undertakes no responsibility for the preparation or filing of any such instrument or the maintenance of any security interest intended to be perfected thereby, all of which shall be the responsibility of the Bondholder and the Borrower. The Issuer covenants and agrees that, except as herein and in the Loan Agreement provided, it will not sell, convey, mortgage, encumber or otherwise dispose of any part of its interest in and to the Loan Agreement, the Borrower Note, the Security for the Bonds or the Revenues.

Section 6.04. Recordation and Other Instruments. In order to perfect the security interest of the Bondholder in the Security for the Bonds, the Issuer, to the extent permitted by law, will execute such assignments, security agreements or financing statements, naming the Bondholder as assignee and pledgee of the Security for the Bonds assigned and pledged under this Bond Issuance Agreement for the payment of the principal of and interest on the Bonds and as otherwise provided herein, as the Bondholder shall reasonably request in writing, and the Borrower will cause the same to be duly filed and recorded, as the case may be, in the appropriate state and county offices as required by the provisions of the Uniform Commercial Code or other similar law as adopted in Illinois, as from time to time amended. To continue the security interest evidenced by the financing statements, the Bondholder shall file and record, or cause to be filed and recorded, such necessary continuation statements or supplements thereto and other instruments from time to time as may be required pursuant to the provisions of the said Uniform Commercial Code or other similar law to fully preserve and protect the security interest of the Bondholder in the Security for the Bonds and to perfect the lien hereof and the rights of the Bondholder hereunder. The Issuer, to the extent permitted by law, at the expense of the Borrower, shall execute and cause to be executed any and all further instruments as shall be reasonably requested in writing by the Bondholder for such protection and perfection of the interests of the Bondholder, and the Issuer or its agent shall, upon written direction from the Bondholder, file and refile or cause to be filed and refiled such instruments as shall be necessary to preserve and perfect the lien of this Bond Issuance Agreement upon the Security for the Bonds

until the principal of and interest on the Bonds issued hereunder shall have been paid or provision for payment shall be made as herein provided.

Section 6.05. Inspection of Books. The Issuer, the Fiscal Agent and the Bondholder covenant and agree that all books and documents in their possession relating to the Project and the Revenues shall at all reasonable times be open to inspection by such accountants or other agencies as the other parties may from time to time designate.

Section 6.06. Rights Under Loan Agreement. The Loan Agreement, a duly executed copy of which has been delivered to the Bondholder, sets forth the covenants and obligations of the Issuer and the Borrower, including provisions to the effect that subsequent to the issuance of the Bonds and prior to its payment in full or provision for payment thereof in accordance with the provisions hereof, the Loan Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the Issuer and the Bondholder, and reference is hereby made to the same for a detailed statement of said covenants and obligations of the Issuer and the Borrower thereunder. The Issuer agrees that the Bondholder, in its name or in the name of the Issuer, may enforce all rights of the Issuer and all obligations of the Borrower under and pursuant to the Loan Agreement, and the Issuer will not enforce such rights and obligations itself except at the written direction of the Bondholder, in each case whether or not the Issuer is in Default hereunder; provided, however, that the foregoing shall not apply to Issuer Reserved Rights.

Section 6.07. Prohibited Activities. The Issuer covenants and agrees that it has not engaged, and will not engage, in any activities, and that it has not taken, and will not take, any action, that might result in any interest on the Bonds becoming includible in the gross income of the owner of the Bonds under Federal income tax laws.

Section 6.08. Arbitrage. The Issuer shall not take any action within its power or fail to take any action of which it has knowledge with respect to the investment of the proceeds of the Bonds, including, without limitation, moneys on deposit in any Fund or Account in connection with the Bonds, whether or not such moneys were derived from the proceeds of the sale of the Bonds or from any other sources, or with respect to the payments derived from the Borrower Note which may result in constituting the Bonds an "arbitrage bond" within the meaning of such term as used in Section 148 of the Code and the Regulations. The Issuer further covenants to create a rebate fund upon direction by the Borrower to facilitate the payment of any rebatable arbitrage that may arise.

Section 6.09. Representations of the Issuer Contained in Loan Agreement. Article V of the Loan Agreement is hereby incorporated by reference into this Bond Issuance Agreement for the benefit of the Bondholder.

## **ARTICLE VII**

### **DEFAULT PROVISIONS AND REMEDIES OF BONDHOLDER**

Section 7.01. Events of Default. Each of the following is hereby defined and declared to be and shall constitute an "Event of Default" hereunder:

(a) default in the due and punctual payment of any amount required to be paid under the Bonds or this Bond Issuance Agreement, whether by way of principal, interest or otherwise, including, without limitation, any mandatory redemption required by Section 3.02 of this Bond Issuance Agreement; provided that such default shall not constitute an Event of Default hereunder if such default is cured within five days after written notice thereof to the Issuer and the Borrower from the Bondholder; or

(b) default in the performance or observance of any other of the covenants, agreements or conditions on the part of the Issuer in this Bond Issuance Agreement or in the Bonds (and not constituting an Event of Default under any of the other provisions of this Section 7.01); provided that such default shall not constitute an Event of Default hereunder if such default is cured within 90 days after written notice thereof to the Issuer and the Borrower from the Bondholder as long as during such period the Issuer and/or the Borrower is using its best efforts to cure such default and such default can be cured in such period; or

(c) any Event of Default shall occur under the Loan Agreement or any Borrower Collateral Document (following the expiration of applicable notice and cure periods); or

(d) any material representation or warranty made by the Issuer herein is breached or is false or misleading in any material respect, or any schedule, certificate, financial statement, report, notice or other writing furnished by the Issuer to the Bondholder is false or misleading in any material respect on the date as of which the facts therein set forth are stated or certified; or

(e) this Bond Issuance Agreement or the Bonds or any of the Borrower Collateral Documents, or any lien granted by the Borrower or the Issuer to the Bondholder, shall (except in accordance with its terms), in whole or in part, terminate, cease to be effective or cease to be the legally valid, binding and enforceable obligations of the Issuer; or the Issuer shall directly or indirectly, contest in any manner such effectiveness, validity, binding nature or enforceability.

Notwithstanding anything to the contrary contained herein, the Fiscal Agent and the Issuer hereby agree that any cure of any default made or tendered by one or more of the Borrower's members be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

Section 7.02. Acceleration. Upon the occurrence of an Event of Default hereunder and as long as such Event of Default is continuing, the Bondholder may, by notice in writing delivered to the Issuer and the Borrower, declare the entire principal amount of the Bonds then outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable, subject, however, to the right of the Bondholder, by written notice to the Issuer and the Borrower, to annul such declaration and rescind its effect as hereinafter provided.

Section 7.03. Other Remedies; Rights of Bondholder. (a) Upon the occurrence of an Event of Default hereunder, the Bondholder may exercise and enforce such rights as exist under the Loan Agreement and the Borrower Collateral Documents or pursue any available remedy by suit at law or in equity or by statute to enforce the payment of the principal of and interest on the Bonds, or to enforce any obligations of the Issuer hereunder.

(b) No remedy by the terms of this Bond Issuance Agreement conferred upon or reserved to the Bondholder is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and in addition to any other remedy given to the Bondholder hereunder or now or hereafter existing at law or in equity or by statute.

(c) No delay or omission to exercise any right or power accruing upon any Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or acquiescence therein; and such right and power may be exercised from time to time as often as may be deemed expedient. No waiver of any Event of Default hereunder shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

(d) All remedies for which provision is made in this Bond Issuance Agreement shall be available only to the extent such remedies are not prohibited by the laws of the State of Illinois, decisions of courts of the State of Illinois or any other applicable law, statute, ordinance, regulation or court decision.

Section 7.04. Appointment of Receivers. Upon the occurrence of an Event of Default hereunder, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Bondholder under this Bond Issuance Agreement, the Bondholder shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Security for the Bonds and of the revenues, earnings and income thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

Section 7.05. Waiver of Rights. Except as specified in Section 7.09 hereof, upon the occurrence of an Event of Default hereunder, to the extent that such rights may then lawfully be waived, neither the Issuer, nor anyone claiming through or under the Issuer, shall set up, claim, or seek to take advantage of any appraisement, valuation, stay, extension, exemption or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement of this Bond Issuance Agreement, and the Issuer, for itself and all who may claim through or under it, hereby waives, to the extent that it lawfully may do so, the benefit of all such laws.

Section 7.06. Application of Funds. All funds received by the Bondholder pursuant to any right given or action taken under the provisions of this Article, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Bondholder or the Issuer, shall be applied to pay the principal of and interest on the Bonds on the basis set forth in Section 4.01 hereof. Notwithstanding any other provision of this Bond Issuance Agreement to the contrary, funds received by the Bondholder may be applied (a) as long as an Event of Default has not occurred and is not continuing, with respect to payments and other amounts then due under the Borrower Note, or, if all such payments and other amounts, if any, have been paid, may be applied as directed by the Borrower, and (b) if an Event of Default has occurred and is continuing, to satisfy amounts due the Bondholder as directed and in such order as determined by the Bondholder.

Section 7.07. Termination of Proceedings. In case the Bondholder shall have proceeded to enforce any right under this Bond Issuance Agreement by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or

shall have been determined adversely, then and in every such case the Issuer, the Borrower, the Fiscal Agent and the Bondholder shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Bondholder shall continue as if no such proceedings had been taken.

Section 7.08. Termination of Bond Issuance Agreement. This Bond Issuance Agreement shall terminate when the Bonds have been finally, indefeasibly and fully paid, at which time the Bondholder shall, on a timely basis, reassign and redeliver (or cause to be reassigned and redelivered) to the Issuer, or to such Person or Persons as the Issuer shall designate in writing, against receipt, such of the Security for the Bonds (if any) assigned by the Issuer to the Bondholder as shall not have been sold or otherwise applied by the Bondholder pursuant to the terms hereof, and as shall still be held by it hereunder, together with appropriate instruments of reassignment and release, including, without limitation, any Uniform Commercial Code termination statements. Any such reassignment shall be without recourse upon, or representation or warranty by, the Bondholder and shall be at the cost and expense of the Borrower. Should a claim ("Recovery Claim") be made upon the Bondholder at any time for recovery of any amount received by the Bondholder in payment of the Bonds (whether received from the Issuer, the Borrower or otherwise), and should the Bondholder repay all or part of said amount by reason of (a) any judgment, decree or order of any court or administrative body having jurisdiction over the Bondholder or any of its property, or (b) any settlement or compromise of any such Recovery Claim effected by the Bondholder with any such claimant (including, without limitation, the Borrower), this Bond Issuance Agreement and the security interests granted to the Bondholder pursuant hereto shall continue in effect with respect to the amount so repaid to the same extent as if such amount had never originally been received by the Bondholder, notwithstanding any prior termination of this Bond Issuance Agreement, the return of this Bond Issuance Agreement to the Issuer or cancellation of the Bonds.

Section 7.09. Waivers of Events of Default. Except for an Event of Default with respect to any Issuer Reserved Rights, the Bondholder may in its discretion waive in writing any Event of Default hereunder or under the Borrower Note not involving any Issuer Reserved Rights and its consequences and rescind in writing any declaration of acceleration of principal of and interest on the Bonds, and in case of any such waiver or rescission, or in case any proceeding taken by the Bondholder on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the Issuer, the Borrower, the Fiscal Agent and the Bondholder shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other Event of Default, or impair any right consequent thereon.

Section 7.10. Cooperation of the Issuer. If an Event of Default hereunder shall occur, the Issuer shall cooperate with the Bondholder and use its best efforts to protect the interests of the Bondholder with respect to this Bond Issuance Agreement, the Bonds, the Security for the Bonds and the Revenues.

## ARTICLE VIII

### FISCAL AGENT

Section 8.01. Appointment of Fiscal Agent. (a) BMO Harris Bank N.A. shall serve as the initial Fiscal Agent hereunder. The Fiscal Agent may resign at any time upon 30 days' prior written notice to the Borrower, the Issuer and the Bondholder.

(b) Upon the resignation of any Fiscal Agent, the Bondholder, with the prior written consent of the Issuer, shall designate a successor Fiscal Agent and shall so notify the Borrower in writing. If a successor Fiscal Agent has not been appointed and has not accepted such appointment by the end of the 30-day period, the Fiscal Agent may apply to a court of competent jurisdiction for the appointment of a successor Fiscal Agent, and the costs, expenses and reasonable attorneys' fees which are incurred in connection with such a proceeding shall be paid by the Borrower. Any successor Fiscal Agent shall be a bank or savings and loan association located in the City of Chicago, and shall at all times be a member of the Federal Deposit Insurance Corporation. No resignation shall become effective until a successor has been designated and accepted such designation in writing.

(c) Removal of Fiscal Agent. The Fiscal Agent may be removed at any time, by instrument in writing delivered to the Fiscal Agent, the Issuer and the Borrower and signed by the Bondholder. No removal shall become effective until a successor has been designated and accepted such designation in writing.

Section 8.02. Successor Fiscal Agents. (a) Any corporation or association into which the Fiscal Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, shall be and become successor Fiscal Agent hereunder and vested with all of the title to the Security for the Bonds and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding; provided, however, that such successor Fiscal Agent shall satisfy the requirements of Section 8.01(b) hereof relating to the qualifications of successor Fiscal Agents.

(b) In case the Fiscal Agent hereunder shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the Bondholder, by an instrument in writing signed by it, or by its attorneys in fact, duly authorized. In case of any such vacancy, the Issuer, by an instrument executed by its Chief Financial Officer and attested by its Secretary under its seal, may appoint a temporary Fiscal Agent to fill such vacancy until a successor Fiscal Agent shall be appointed by the Bondholder in the manner above provided; and any such temporary Fiscal Agent so appointed by the Issuer shall immediately and without further act be superseded by the Fiscal Agent so appointed by the Bondholder.

Section 8.03. Indemnification and Reimbursement of Fees of Fiscal Agent and Issuer. The Fiscal Agent and the Issuer shall be entitled to payment and reimbursement for fees for services rendered under this Bond Issuance Agreement and all advances, reasonable counsel fees and other expenses made or incurred by the Fiscal Agent or the Issuer in connection with such services. The Fiscal Agent shall be entitled to payment and reimbursement for its reasonable fees and charges as Bond Registrar for the Bonds as hereinabove provided. The Fiscal Agent and the Issuer shall look solely to the Borrower for the payment of such amounts as provided herein and in the Loan Agreement, and the Issuer shall not be liable therefor. The Fiscal Agent, the Bondholder and the Issuer are indemnified as provided in the Loan Agreement.

## ARTICLE IX

### MISCELLANEOUS

Section 9.01. Unclaimed Moneys. Any moneys deposited with the Fiscal Agent by the Issuer, in accordance with the terms and covenants of this Bond Issuance Agreement, in order to redeem or pay the Bonds, and remaining unclaimed by the Bondholder at any time after two years after the date fixed for redemption or of maturity, as the case may be, shall be repaid by the Fiscal Agent to the Issuer, or to such party (the "Designee") as is directed by the Issuer, upon its Written Request therefor; and thereafter the registered owner of the Bonds shall be entitled to look only to the Issuer or the Designee for payment thereof; provided, however, that the Fiscal Agent, before being required to make any such repayment, shall, at the expense of the Borrower, effect publication at least once in a newspaper of general circulation in the City of Chicago, Illinois, printed in the English language and customarily published on each Business Day, of a notice to the effect that said moneys have not been so applied and that after the date named in said notice any unclaimed balance of said moneys then remaining shall be returned to the Issuer or the Designee. If the amount remaining unclaimed has been paid by the Borrower under the Borrower Note, the unclaimed amount will be paid to the Borrower, and the Borrower shall be the Designee (unless the Issuer has fully released the Borrower under the Borrower Note).

Section 9.02. Consents of Bondholder. Any consent, request, direction, approval, objection or other instrument required by this Bond Issuance Agreement to be signed and executed by the Bondholder may be executed by the Bondholder in person or by its agent appointed in writing. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Bond Issuance Agreement, and shall be conclusive in favor of the Fiscal Agent and the Issuer with regard to any action taken by either of them under such request or other instrument, namely:

(a) the fact and date of the execution by any Person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the Person signing such writing acknowledged before him the execution thereof, or by an affidavit of any witness to such execution; and

(b) the ownership of the Bonds shall be proved by the registration books maintained by the Bond Registrar.



Section 9.03. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Bond Issuance Agreement or the Bonds is intended or shall be construed to give to any Person other than the parties hereto and the Borrower any legal or equitable right, remedy or claim under or with respect to this Bond Issuance Agreement or any covenants, conditions and provisions herein contained, this Bond Issuance Agreement and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the Borrower.

Section 9.04. Severability. If any provision of this Bond Issuance Agreement shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or Sections contained in this Bond Issuance Agreement shall not affect the remaining portions of this Bond Issuance Agreement, or any part thereof; provided, however, that no holding of invalidity shall require the Issuer to make any payments from any moneys other than Revenues.

Section 9.05. Notices. Any notice, request, complaint, demand, communication or other paper shall be in writing and shall be sufficiently given, and shall be deemed given, when delivered or mailed as provided in Section 14.3 of the Loan Agreement.

A duplicate copy of each notice required to be given hereunder by the Bondholder or the Fiscal Agent to the Issuer or the Borrower shall also be given to the others. The Issuer, the Borrower, the Fiscal Agent and the Bondholder may designate any further or different addresses to which subsequent notices, requests, complaints, demands, communications and other papers shall be sent.

Section 9.06. Payments Due on Saturdays, Sundays and Holidays. In any case where the date of maturity of interest on or principal of the Bonds or the date fixed for prepayment of all or a portion of the Bonds shall be on Saturday, Sunday or other day which is not a Business Day, then such payment need not be made on such date but may be made on the next succeeding Business Day and the Bonds shall continue to bear interest until such date.

Section 9.07. Duplicates. This Bond Issuance Agreement may be executed in several duplicates, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9.08. Governing Law. This Bond Issuance Agreement, the Bonds and the rights and obligations of the parties hereunder and thereunder shall be construed in accordance with and be governed by the laws of the State of Illinois, without regard to its conflict of laws principles.

Section 9.09. Immunity of Issuer's Officers. No recourse shall be had for the payment of the principal of and interest on the Bonds or for any claim based thereon or upon any obligation, covenant or agreement contained in this Bond Issuance Agreement, against any past, present or future officer, official, supervisor, director, agent or employee of the Issuer, or any officer, official, supervisor, director, agent or employee of any successor public body or entity, as such, either directly or through the Issuer or any successor corporation or entity, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officer, official, supervisor, director, agent or employee as such is hereby expressly waived and released as a condition of and consideration for the execution of this Bond Issuance Agreement and the issuance of the Bonds.

Section 9.10. Continuing Assignment and Security Interest Upon Transfer of Bonds. This Bond Issuance Agreement shall create a continuing assignment of, and security interest in, the Security for the Bonds, and shall (i) remain in full force and effect until payment in full of the Bonds, (ii) be binding upon the Issuer, its successors and assigns, and (iii) inure to the benefit of the Bondholder and its successors, permitted transferees and assigns. Without limiting the generality of the foregoing clause (iii), the Bondholder may assign or otherwise transfer, subject to Section 2.13 hereof, all of the Bonds held by it to any other Persons as provided in this Bond Issuance Agreement, and such other Persons shall thereupon become vested with all the benefits in respect thereof granted to the Bondholder herein or otherwise upon delivery to the Issuer in writing of an acknowledgment of such other Persons of such assignment or transfer, and agreeing to accept and perform any duties or obligations imposed upon it under this Bond Issuance Agreement.

Section 9.11. Amendments, Changes and Modifications. Subsequent to the initial issuance of the Bonds and prior to its payment in full (or provision for payment thereof having been made in accordance with the provisions of this Bond Issuance Agreement), this Bond Issuance Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the Bondholder, the Issuer and the Borrower.

Section 9.12. Term of this Bond Issuance Agreement. This Bond Issuance Agreement shall be in full force and effect from the date hereof, and shall continue in effect until the indefeasible payment in full of the Bonds and all other obligations due hereunder. All matters affecting the tax-exempt status of the Bonds shall survive the termination of this Bond Issuance Agreement.

Section 9.13. Binding Effect. This Bond Issuance Agreement shall inure to the benefit of, and shall be binding upon, the Issuer and the Bondholder and their respective successors and assigns.

Section 9.14. Waivers. If any agreement contained in this Bond Issuance Agreement should be breached by the Issuer and thereafter waived by the Bondholder, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. All waivers by the Bondholder of breaches hereof by the Issuer shall be in writing.

Section 9.15. Participations. (a) The Bondholder shall have the right to grant participations in or to the Bonds hereunder and to the Borrower Note all without notice to or

consent from the Issuer, but subject to the restriction on transfer (including, but not limited to, the provision of a Qualified Transferee Letter to the Issuer) set forth herein and in the Bonds, and provided that there shall at all times be but one registered owner of all of the Bonds. No holder of a participation in all or any part of the Bonds and the Borrower Note shall have any rights under this Bond Issuance Agreement.

(b) The Issuer hereby consents to the disclosure of any information about the Issuer provided by the Issuer obtained in connection herewith (i) by the Bondholder to any Person which is a participant or potential participant pursuant to clause (a) above, it being understood that the Bondholder and its assigns shall advise any such Person of its obligation to keep confidential any non-public information disclosed to it pursuant to this Section 9.15. The Bondholder shall advise the Issuer of each Person which becomes a participant pursuant to clause (a) above.

Section 9.16. Entire Agreement. This Bond Issuance Agreement, together with the Borrower Note, the Loan Agreement, the Borrower Collateral Documents and the Bonds, constitutes the entire agreement among the parties with respect to the subject matter hereof, and supersedes all written or oral understandings with respect thereto.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have executed this Bond Issuance Agreement as of the date first above written.

(SEAL)

**CITY OF CHICAGO**

ATTEST:

\_\_\_\_\_

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

**BMO HARRIS BANK N.A., as**  
Bondholder

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

**BMO HARRIS BANK N.A., as Fiscal**  
Agent

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

Acknowledged and agreed to:

TAYLOR STREET LA LLC,  
an Illinois limited liability company

By: Roosevelt Square LLC,  
an Illinois limited liability company, its manager

By: LR ABLA LLC,  
a Delaware limited liability company, its manager

By: LR Development Company LLC,  
a Delaware limited liability company, d/b/a Related Midwest LLC, its sole  
member

By: \_\_\_\_\_  
Jacques Sandberg  
Vice President and Secretary

## EXHIBIT A

### DEFINITIONS

“Additional Funding Sources” means (a) the CHA Capital Grant, (b) the CHA Donation Tax Credit Loan, (c) the proceeds from the sale of the Low Income Housing Tax Credits, and (d) the TIF Funds.

“Affiliate” means, with respect to any Person, any Person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person. A Person shall be deemed to control another Person for the purposes of this definition if such first Person possesses, directly or indirectly, the power to direct, or cause the direction of, the management and policies of the second Person, whether through the ownership of voting securities, common directors, trustees or officers, by contract or otherwise.

“Architect” means \_\_\_\_\_.

“Assignment of Contracts” means that certain Collateral Assignment of Contracts, Permits and Licenses, of even date herewith, from the Borrower to the Bondholder, as the same may be amended, modified or supplemented from time to time.

“Assignment of Leases” means that certain Assignment of Leases, Rents and Profits, of even date herewith, from the Borrower to the Bondholder, as the same may be amended, modified or supplemented from time to time.

“Bond Counsel” means nationally recognized municipal bond counsel selected by the Issuer and reasonably acceptable to the Bondholder.

“Bondholder” means BMO Harris Bank N.A., a national banking association, and its successors and assigns as the registered owner of the Bonds. There shall only be one Bondholder at a time hereunder, provided that the Bondholder may sell, subject to applicable law, participations in the Bonds.

“Bond Issuance Agreement” means this Bond Issuance Agreement, among the Issuer, the Bondholder and the Fiscal Agent, as the same may be amended, modified or supplemented from time to time.

“Bond Registrar” means BMO Harris Bank N.A., a national banking association, as registrar of the Bonds pursuant to Section 2.13 of this Bond Issuance Agreement, and any successors thereto which shall, from time to time, be appointed by the Issuer.

“Bonds” means the Issuer’s \$[Principal] Multi-Family Housing Revenue Bonds (Taylor Street Library and Apartments Project), Series 2017, issued under the Ordinance and secured by this Bond Issuance Agreement and by the other Security for the Bonds, substantially in the form of **Exhibit B** to this Bond Issuance Agreement, as the same may be amended, modified or supplemented from time to time.

“Borrower” means Taylor Street LA LLC, an Illinois limited liability company, and its successors and assigns.

“Borrower Collateral Documents” means, collectively, (a) the Mortgage, (b) the Cash Collateral Agreement, (c) the Security Agreement, (d) the Assignment of Contracts, (e) the Assignment of Leases, (f) the Environmental Indemnity Agreement; (g) the Developer Fee Agreement, (h) the Completion Guaranty, (i) the Payment Guaranty, (j) the Subordination Agreement, and (k) such other collateral security documents as the Bondholder may require.

“Borrower Documents” means, collectively, the Bond Issuance Agreement, the Loan Agreement, the Cash Collateral Agreement, the Land Use Restriction Agreement, the Tax Certificate, the Borrower Note and the Borrower Collateral Documents.

“Borrower Note” means the promissory note of the Borrower, of even date herewith, payable to the order of the Issuer in the principal amount of \$[Principal], substantially in the form of Exhibit A to the Loan Agreement, as the same may be amended, modified or supplemented from time to time.

“Buildings” means the buildings in which the Project is located.

“Business Day” means other than (a) a Saturday or Sunday, or (b) a day on which banks located in the City of Chicago are authorized or required to remain closed.

“Capital Contribution” means a capital contribution made by the Investor Member in accordance with the provisions of the Operating Agreement.

“Cash Collateral Agreement” means the Cash Collateral Assignment and Security Agreement, of even date herewith, among the Borrower, the Chicago Housing Authority, BMO Harris Bank N.A., as Bondholder, and BMO Harris Bank N.A., as escrow agent thereunder.

“Cash Collateral Fund” has the meaning assigned to such term in the Cash Collateral Agreement.

“CHA” means the Chicago Housing Authority.

“CHA Capital Loan” means the grant to be made by the CHA to the Borrower in the principal amount of \$\_\_\_\_\_, derived from “Moving to Work” funds and/or “Capital Funds”.

“CHA Capital Loan Agreement” means the Chicago Housing Authority Loan Agreement dated as of August 1, 2016 between the CHA and the Borrower, relating to the CHA Capital Loan.

“CHA Collateral Portion” means the \$\_\_\_\_\_ principal amount of the Bonds to be repaid with proceeds of CHA funds on deposit in the Cash Collateral Fund established pursuant to the Cash Collateral Agreement.

“CHA Donation Tax Credit Loan” means the loan in the amount of \$[1,215,521] to the Borrower from the CHA, derived from proceeds of the sale of the Donation Tax Credits, which CHA Donation Tax Credit Loan will be secured by a [second] mortgage on the Premises.

“CHA Donation Tax Credit Loan Agreement” means the Chicago Housing Authority Loan Agreement dated as of \_\_\_\_\_ 1, 2017 between the CHA and the Borrower relating to the CHA Donation Tax Credit Loan.

“Closing Date” means \_\_\_\_\_, 2017.

“Code” means the Internal Revenue Code of 1986, as amended.

“Complete” or “Completed” has the meaning assigned to such term in Section 7.11 of the Loan Agreement.

“Completion Date” means the date the Project is “Complete.”

“Completion Guaranty” means the Guaranty of Completion of even date herewith from the Borrower and the Guarantors to the Bondholder, as the same may be amended, modified or supplemented from time to time.

“Construction Escrow” means the escrow established pursuant to the Construction Escrow Agreement.

“Construction Escrow Agreement” means the Escrow Agreement by and among Borrower, the Issuer, the Chicago Housing Authority, the Bondholder and the title company, as escrow agent, and acknowledged and consented to by the General Contractor.

“Construction Fund” has the meaning set forth in Section 4.02 of this Bond Issuance Agreement.

“Costs of the Project” means any reasonable or necessary costs incidental to the acquisition, construction, and renovation of the Project which are in compliance with the provisions of the Tax Certificate, and as set forth in the Development Cost Budget.

“Debt Service Coverage Ratio” [means the ratio of (i) the actual operating revenues of the Project (annualized) less the projected operating expenses of the Project, including interest, amortization and depreciation, as shown in the Borrower’s unaudited monthly financial statements (annualized) to (ii) debt service on all Indebtedness of the Borrower requiring payment not contingent on cash flow.] [To be updated]

“Default” means any event, act or condition which, with lapse of time or the giving of notice, or both, would constitute an Event of Default.



“Designated Office” means the corporate office of the Fiscal Agent set forth in Section 9.05 of this Bond Issuance Agreement, or such other address as may be specified in writing by the Fiscal Agent as provided herein.

“Determination of Taxability” means with respect to the Bonds (a) the receipt by the Borrower of a written notice from the Bondholder or any former registered owner of the Bonds of the issuance of a statutory notice of deficiency by the Internal Revenue Service which holds, in effect, that the interest payable on the Bonds is includable in the Federal gross income of the taxpayer named therein (other than a taxpayer who is a “substantial user” of the facilities financed with the proceeds of the Bonds or a “related person” thereto within the meaning of Section 147 of the Code); (b) the receipt by the Borrower and the Bondholder of an opinion of Bond Counsel to the effect that the interest payable on the Bonds is includable in the Federal gross income of the taxpayer named therein; (c) the filing by the Borrower with the Bondholder or the Internal Revenue Service of any certificate, statement or other tax schedule, return or document which concludes or discloses that the interest payable on the Bonds, or any installment thereof, is includable in the Federal gross income of the Bondholder or any former owner of the Bonds (other than a taxpayer who is a “substantial user” of the facilities financed with the proceeds of the Bonds or a “related person” thereto within the meaning of Section 147 of the Code); or (d) any amendment, modification, addition or change shall be made in Section 103 or any other provision of the Code or in any Regulation, or any ruling shall be issued or revoked by the Internal Revenue Service, or any other action shall be taken by the Internal Revenue Service, the Department of Treasury or any other governmental agency, authority or instrumentality, or any opinion of any Federal court or of the United States Tax Court shall be rendered, and the Bondholder or any former owner of the Bonds shall have notified the Borrower and the Issuer in writing that, as a result of any such event or condition, Bond Counsel is unable to give an unqualified opinion that the interest payable on the Bonds on or after a date specified in said notice is excludable from the Federal gross income of the taxpayer named therein.

“Developer” means Taylor Street LA LLC, an Illinois limited liability company, together with its successors and assigns.

“Development Cost Budget” means the initial breakdown of the Costs of the Project prepared by the Borrower and approved in writing by the Bondholder, of the total cost required to acquire, construct and renovate the Project. The analysis shall break down that total amount into the following three cost categories: (a) “land acquisition cost,” (b) “hard construction costs,” and (c) “soft costs.” The categories of “hard costs” and “soft costs” shall be further broken down by detailed line items, each for a specific type of cost associated with the Project.

“Developer Fee Agreement” means the Inter-Creditor Agreement (Deferred Developer Fee) of even date herewith among the Borrower, the Developer and the Bondholder, as the same may be amended, modified or supplemented from time to time. “Dollars” means United States Dollars.

“Donation Tax Credits” means the tax credits available with respect to the Project pursuant to 20 ILCS 3805/7.28.

“Eligible Investment” means, to the extent permitted by the applicable laws and regulations of the Issuer and the State of Illinois, and with the approval of the Bondholder, any one or more of the following: (1) Government Obligations; (2) interest-bearing accounts at BMO Harris Bank N.A.; (3) interest in money market mutual funds registered under the Investment Company Act of 1940, as amended; provided, that the governing instrument or order directs, requires, authorizes or permits investment in obligations described in (1) above and to repurchase agreements fully collateralized by such obligations; and (4) such other investments approved in writing by the Borrower, the Issuer and the Bondholder.

“Environmental Indemnity Agreement” means the Environmental Indemnity Agreement of even date herewith from the Borrower and the Guarantor in favor of the Bondholder, as amended from time to time.

“Event of Default” means (a) with respect to the Loan Agreement, those events of default specified in Section 12.1 of the Loan Agreement, and (b) with respect to this Bond Issuance Agreement, those events of default specified in Section 7.01 of this Bond Issuance Agreement.

“Fiscal Agent” means BMO Harris Bank N.A., a national banking association, and its successors and any corporation or association resulting from or surviving any consolidation or merger to which it or its successors may be a party, and any successor fiscal agent at the time serving as such under this Bond Issuance Agreement.

“Funding Order” has the meaning assigned to such term in Section 10.15 of the Loan Agreement.

“GAAP” or “generally accepted accounting principles” means generally accepted accounting principles as defined by the Financial Accounting Standards Board.

“General Contractor” means \_\_\_\_\_, an Illinois corporation, and its successors and assigns.

“Governmental Body” means the United States of America, the State of Illinois and any political subdivision thereof, and any agency, department, commission, board, bureau or instrumentality of any of them which exercises jurisdiction over the Project, the use of improvements thereto or the availability of ingress or egress thereto or of gas, water, electricity, sewerage or other utility facilities therefor.

“Government Obligations” means direct obligations of, and obligations fully guaranteed as to the timely payment of principal and interest by the full faith and credit of, the United States of America or any agency or instrumentality thereof when such obligations are backed by the full faith and credit of the United States of America.

“Government Regulation” means any law, ordinance, order, rule or regulation of a Governmental Body.

“Guarantor” means The Related Companies, L.P., a \_\_\_\_\_ limited partnership, and its successors and assigns.

“Indebtedness” means, with respect to any Person, as of the date of determination thereof: (a) all of such Person’s indebtedness for borrowed money; (b) all indebtedness of such Person or any other Person secured by any Lien with respect to any Property owned or held by such Person, regardless whether the indebtedness secured thereby shall have been assumed by such Person; (c) all indebtedness of other Persons which such Person has directly or indirectly guaranteed (whether by discount or otherwise), endorsed (otherwise than for collection or deposit in the ordinary course of operations), discounted with recourse to such Person or with respect to which such Person is otherwise directly or indirectly, absolutely or contingently, liable, including indebtedness in effect guaranteed by such Person through any agreement (contingent or otherwise) to (i) purchase, repurchase or otherwise acquire such Indebtedness or any security therefor, (ii) provide funds for the payment or discharge of such indebtedness or any other liability of the obligor of such indebtedness (whether in the form of loans, advances, stock purchases, capital contribution or otherwise), (iii) maintain the solvency of any balance sheet or other financial condition of the obligor of such indebtedness, or (iv) make payment for any products, materials or supplies or for any transportation or services regardless of the nondelivery or nonfurnishing thereof, if in any such case the purpose or intent of such agreement is to provide assurance that such indebtedness will be paid or discharged or that any agreements relating thereto will be complied with or that the holders of such indebtedness will be protected against loss in respect thereof; (d) all of such Person’s capitalized lease obligations; (e) all actual or contingent reimbursement obligations with respect to letters of credit issued for such Person’s account; and (f) all other items which, in accordance with GAAP, would be included as liabilities on the liability side of the balance sheet of such Person.

“Indemnified Persons” has the meaning given to such term in Section 13.1 of the Loan Agreement.

“Initial Investor Letter” means a letter substantially in the form of Exhibit E hereto.

“Interest Rate” means a per annum floating rate equal to the lesser of (i) 74% times the sum of (a) the LIBOR Monthly Rate, plus (b) 2.60%, increasing or decreasing with each increase or decrease of the LIBOR Monthly Rate, and (ii) the Maximum Rate.

“Insurance Requirements” means those requirements with respect to the maintenance of insurance with respect to the Project and the Borrower’s obligations under the Loan Agreement and under the other Borrower Documents.

“Interest Payment Date” means each date for the payment of interest on the Bonds as determined pursuant to Section 2.04(a) of this Bond Issuance Agreement.

“Investor Member” means [\_\_\_\_\_], a \_\_\_\_\_ limited liability company and member of the Borrower (holding an approximately [99.98] percent equity interest in the Borrower), together with its permitted successors and assigns.

“Issuer” means the City of Chicago, a municipal corporation and home rule unit of local government duly organized and validly existing under the Constitution and laws of the State of Illinois, and any successor body to the duties or functions of said Issuer.

“Issuer Documents” means, collectively, the Bond Issuance Agreement, the Loan Agreement, the Land Use Restriction Agreement and the Tax Certificate.

“Issuer Reserved Rights” means (1) rights under Sections 7.4, 7.5, 7.8(a), 12.4, 12.5, 12.6, 13.1, 14.1 (second paragraph thereof), 14.6, 14.7 and 14.12 of the Loan Agreement, which rights may be enforced directly by the Issuer and, where appropriate, also by the Bondholder, (2) the Issuer’s right to consent to amendments of the Loan Agreement and the Borrower Note, and (3) the Issuer’s right to receive additional notices as provided in the Loan Agreement, which rights may be enforced directly by the Issuer and, where appropriate, also by the Bondholder.

“Land Use Restriction Agreement” means the Land Use Restriction Agreement dated as of \_\_\_\_\_ 1, 2017, between the Issuer and the Borrower, as the same may be amended, modified or supplemented from time to time.

“Liabilities” means any and all of the Borrower’s obligations, liabilities and indebtedness to the Issuer or the Bondholder, now or hereafter existing or arising, or due or to become due, under or by reason of this Loan Agreement, the Borrower Note, the Bond Issuance Agreement, the Bonds, the Security for the Bonds, the Borrower Collateral Documents or any other document, instrument or agreement executed in connection therewith, by operation of law or otherwise, and any refinancings, substitutions, extensions, renewals, replacements and modifications for or of any or all of the foregoing, including all principal of and interest accrued on the Bonds and the Borrower Note, all fees, charges, expenses, disbursements, costs and indemnities of the Borrower thereunder.

“LIBOR Monthly Rate” shall mean the one-month London Interbank Offered Rate (LIBOR) as reported on Bloomberg Financial Market’s terminal screen entitled “Official ICE LIBOR Fixings” as reported two London Business Days prior to the effective date, unless such rate is no longer available or published, in which case such rate shall be at a comparable index rate selected by the Bondholder with notice to the Borrower. “London Business Day” means any date on which dealings in U.S. dollar deposits are transacted in the London interbank market. The Bondholder shall determine the LIBOR Monthly Rate based on the foregoing, and its determination thereof shall be conclusive and binding except in the case of manifest error. [Notwithstanding the foregoing, in no event shall the LIBOR Monthly Rate be less than zero.]

“Lien” means any mortgage, pledge, lien, hypothecation, security interest or other charge, encumbrance or preferential arrangement, including the retained security title of a conditional vendor or lessor.

“Loan” shall mean the loan of the proceeds of the Bonds to the Borrower under the Loan Agreement

“Loan Agreement” means that certain Loan Agreement, of even date herewith, between the Issuer and the Borrower, as the same may be amended, modified or supplemented from time to time.

“Low Income Housing Tax Credits” means the tax credits described in Section 42 of the Code with respect to the Project.

“Managing Member” means Roosevelt Square Library LLC, an Illinois limited liability company and general partner of the Borrower (holding an approximately 0.01 percent equity interest in the Borrower), together with its permitted successors and assigns.

“Maturity Date” means the date specified in Section 2.02(f) hereof, as the same may be extended as provided therein..

“Maximum Rate” means twelve percent (12%) per annum.

“Mortgage” means the Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing, dated as of \_\_\_\_\_ 1, 2017, from the Borrower to the Bondholder, securing the Loan and which shall be subject to the terms of the RAD Use Agreement.

“Operating Agreement” means the Amended and Restated Operating Agreement dated \_\_\_\_, 2017 among the Managing Member, the Special Investor Member, and the Investor Member as supplemented and amended.

“Ordinance” means the ordinance duly adopted by the City Council of the Issuer on \_\_\_\_\_, 2017, authorizing, among other things, the execution and delivery of this Bond Issuance Agreement, the Loan Agreement and the Land Use Restriction Agreement and the issuance of the Bonds.

“Outstanding” means that portion of the Bonds that has not been finally and fully paid hereunder.

“Past Due Rate” means a fluctuating rate per annum equal to the LIBOR Monthly Rate , plus five hundred (500) basis points, but in no event greater than the Maximum Rate.

“Payment Guaranty” means the Payment Guaranty of even date herewith from the Guarantors to the Bondholder, as the same may be amended, modified or supplemented from time to time.

“Person” means an individual, partnership, joint venture, corporation, trust, limited liability company, unincorporated organization or foundation, and a governmental agency or political subdivision thereof.

“Plans and Specifications” means the plans and specifications for the Project most recently prior to the Closing Date provided to the Issuer and the Bondholder.

“Premises” means the real estate located within the corporate boundaries of the City of Chicago, Illinois, which is described in **Exhibit C** hereto, and any additional real estate that from time to time may be acquired, including all buildings, structures and other improvements now and hereafter located thereon, which constitutes the site of the Project. The Premises are located on Taylor Street between Loomis and Ada Streets.

“Project” means a mixed use, midrise building that will contain mixed-income one and two bedroom rental units, community green space, and a library, which includes 7 market-rate

rental units, 37 CHA public housing (RAD) units, and 29 tax credit units[, all of which will be leased to public housing (RAD) residents].

“Property” means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible, including, without limitation, all cash and pledged receivables.

“Qualified Transferee” means a Person who is either (i) a “qualified institutional buyer” as defined in Rule 144A promulgated under the United States Securities Act of 1933, as amended, or (ii) any transferee of the Bonds to the extent the Bonds are transferred pursuant to another exemption from registration under the 1933 Act, executing and delivering to the Issuer a Qualified Transferee Letter.

“Qualified Transferee Letter” means a letter substantially in the form of **Exhibit D** hereto.

“RAD Use Agreement” means the Rental Assistance Demonstration Use Agreement between the United States of America, Secretary of Housing and Urban Development, and the Borrower.

“Rate Management Agreement” means any agreement, device or arrangement providing for payments which are related to fluctuations of interest rates, exchange rates, forward rates, or equity prices, including, but not limited to, dollar-denominated or cross-currency interest rate exchange agreements, forward currency exchange agreements, interest rate cap or collar protection agreements, forward rate currency or interest rate options, puts and warrants, and any agreement pertaining to equity derivative transactions (e.g., equity or equity index swaps, options, caps, floors, collars and forwards), including, without limitation, any such agreement between Borrower and Bondholder, any Affiliate of Bondholder or any other party, and any schedules, confirmations and documents and other confirming evidence between the parties confirming transactions thereunder, all whether now existing or hereafter arising and in each case, as amended, modified or supplemented from time to time.

“Regulations” mean any regulations promulgated or proposed by the Internal Revenue Service under Sections 103 and 141 through 150 of the Code, as amended.

“Revenues” means (a) all payments of principal and interest made on the Borrower Note (other than those relating to the obligation of the Borrower to rebate certain investment income to the United States Government pursuant to Section 148 of the Code), (b) all moneys held in any fund established under this Bond Issuance Agreement, including investment income earned thereon, and (c) all moneys received by the Bondholder pursuant to the provisions of the Loan Agreement.

“Security Agreement” means the Security Agreement (Assignment of Capital Contributions and Membership Interests), of even date herewith, between the Borrower and the Bondholder, for the benefit of the Bondholder.

“Security for the Bonds” means the property described in the granting clauses of this Bond Issuance Agreement.

["Subordination Agreement" means the Subordination of Mortgages and Intercreditor Agreement, dated as of \_\_\_\_\_ 1, 2017, among the Borrower, the Bondholder, and the holders of all subordinated indebtedness contemplated in this Bond Issuance Agreement or in the Loan Agreement.]

"Tax Certificate" means the Arbitrage and Tax Certificate, dated as of the date of issuance of the Bonds, between the Issuer and the Borrower, as amended from time to time.

"TIF Funds" means [\$7,000,000] in TIF Funds derived from the Roosevelt/Racine and Western/Ogden TIF district to be made available to the Project pursuant to that certain Taylor Street Library and Apartments Project Redevelopment Agreement among the City of Chicago, Borrower, and \_\_\_\_\_.

"Written Request" means (a) with reference to the Issuer, a request in writing signed by its Chairman or any other officer or official designated by the Issuer, and (b) with reference to the Borrower or the Bondholder, a request in writing signed by the authorized representative of the Borrower or the Bondholder, as applicable.

**EXHIBIT B**

**FORM OF BOND**

**THIS BOND IS TRANSFERABLE ONLY AS A WHOLE AS PROVIDED HEREIN**

**UNITED STATES OF AMERICA  
STATE OF ILLINOIS  
CITY OF CHICAGO**

**MULTI-FAMILY HOUSING REVENUE BOND  
(TAYLOR STREET LIBRARY AND APARTMENTS PROJECT), SERIES 2017**

**PAYABLE BY THE ISSUER SOLELY AND ONLY FROM REVENUES REFERRED TO HEREIN, INCLUDING, WITHOUT LIMITATION, REVENUES AND RECEIPTS DERIVED FROM AND PURSUANT TO THE LOAN AGREEMENT, THE BORROWER NOTE AND THE SECURITY DOCUMENTS REFERRED TO HEREIN.**

**THIS BOND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE. ACCORDINGLY, THIS BOND MAY BE SOLD OR OTHERWISE TRANSFERRED ONLY IN TRANSACTIONS IN WHICH THIS BOND IS REGISTERED UNDER THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS, OR IN TRANSACTIONS IN WHICH THIS BOND IS EXEMPT FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. THE ISSUER HAS NOT UNDERTAKEN ANY OBLIGATION TO CAUSE THIS BOND TO BE REGISTERED UNDER THE SECURITIES ACT OR APPLICABLE STATE SECURITIES LAWS, OR TO COMPLY WITH ANY EXEMPTION THAT MAY BE AVAILABLE UNDER THE SECURITIES ACT OR APPLICABLE STATE SECURITIES LAWS, INCLUDING, WITHOUT LIMITATION, RULE 144A UNDER THE SECURITIES ACT. THE REGISTERED OWNER OF THIS BOND AGREES THAT ANY TRANSFER OF THIS BOND WILL BE IN ACCORDANCE WITH THE PROVISIONS OF THE BOND ISSUANCE AGREEMENT.**

No. R-1

Dated: \_\_, 2017

\$(Principal)

KNOW ALL MEN BY THESE PRESENTS, that the CITY OF CHICAGO, a municipal corporation and home rule unit of local government duly organized and validly existing under the Constitution and the laws of the State of Illinois (the "Issuer"), for value received, promises to pay (but only out of the source hereinafter described) to BMO HARRIS BANK N.A., a national banking association, or registered assigns (the "Bondholder"), the unrepaid portion of the principal amount specified above that has been advanced by the Bondholder (as described herein, the "Advanced Principal") pursuant to the Bond Issuance Agreement (the "Bond Issuance Agreement"), dated as of \_\_\_\_\_ 1, 2017, among the Issuer, the Bondholder and BMO Harris Bank N.A., as fiscal agent (the "Fiscal Agent") on [\_\_\_\_\_ 1, 2020] [30 months after Closing], except to the extent that the provisions hereinafter set forth with respect to redemption



prior to maturity or extension of maturity may become applicable hereto, and to pay (but only out of the sources hereinafter described) interest on the unpaid Advanced Principal balance hereof from the date or dates such principal was advanced as follows. Interest shall be computed on the unpaid Advanced Principal balance of this Bond at the interest rate or rates as provided in the Bond Issuance Agreement payable on the first day of each month, at redemption and on the Maturity Date, commencing on the first day of the month following the date hereof. Principal on this Bond on the Maturity Date (in an amount equal to the unpaid principal amount outstanding).

This Bond is the "Bond" described in, and is subject to the terms and provisions of the Bond Issuance Agreement, and payment of this Bond is secured as described in the Bond Issuance Agreement. Capitalized terms not defined herein have the same meaning as given in the Bond Issuance Agreement. Reference is hereby made to the Bond Issuance Agreement for a statement of the prepayment rights and obligations of the undersigned, a description of the security therefor, and for a statement of the terms and conditions under which the due date of this Bond may be accelerated. Upon the occurrence of any Event of Default as specified in the Bond Issuance Agreement, the principal balance hereof and the interest accrued hereon may be declared to be forthwith due and payable.

This Bond is secured by the Security for the Bonds as provided in the Bond Issuance Agreement.

Notwithstanding anything herein or in the Bond Issuance Agreement to the contrary, if the Issuer shall fail to make any of the payments required to be made by it under this Bond, such payments shall continue as a limited obligation of the Issuer until the amount in default shall have been fully paid and interest on this Bond shall continue to accrue at the rate specified in the Bond Issuance Agreement from the date such payment was due until the date such payment is made or the date this Bond has been repaid in full, whichever is earlier.

In any case where the date of payment of interest on or principal of this Bond or the date fixed for prepayment of all or a portion of this Bond shall not be a Business Day, then such payment need not be made on such date but may be made on the next succeeding Business Day and this Bond shall continue to bear interest until such date.

All funds received by the Bondholder pursuant to any right given or action taken under this Bond, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Bondholder, shall be applied first to interest on the unpaid principal balance and the remainder to principal remaining due under this Bond. Notwithstanding any other provision of this Bond or the Bond Issuance Agreement to the contrary, funds received by the Bondholder may be applied (a) so long as an Event of Default has not occurred and is not continuing, with respect to the payment then due under this Bond if due, or, if all such payments have been made may be applied as directed by the Borrower (defined herein), and (b) if an Event of Default has occurred and is continuing, as directed and in such order as determined by the Bondholder.

This Bond is issued for the purpose of funding a loan by the Issuer to Taylor Street LA LLC, an Illinois limited liability company (the "Borrower") pursuant to the Loan Agreement dated as of \_\_\_\_\_ 1, 2017 (the "Loan Agreement") between the Issuer and the Borrower for

the purpose of financing a portion of the costs of acquiring, constructing, and renovation the Project (as defined in the Bond Issuance Agreement). The terms and conditions of the acquisition, construction, and equipping of the Project, the loan of the proceeds of this Bond to the Borrower for such purpose, the issuance of this Bond, and the terms upon which the Bonds are issued and secured are contained in the Bond Issuance Agreement and the Loan Agreement.

**This Bond shall only be transferable in whole to a Qualified Transferee delivering to the Issuer a Qualified Transferee Letter in the form of Exhibit D to the Bond Issuance Agreement.**

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution, delivery of and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law; and that the issuance of this Bond, together with all other obligations of the Issuer, does not exceed or violate any constitutional or statutory limitation.

This Bond is issued pursuant to an Ordinance adopted by the City Council of the Issuer. The Bonds shall not be a debt of any city, village, incorporated town, county, the State of Illinois or any political subdivision thereof and neither the city, village, incorporated town or the county, nor the State of Illinois or any political subdivision thereof shall be liable thereon, nor in any event shall the Bonds be payable out of any funds or properties other than those of the Issuer as provided under the Bond Issuance Agreement. The Bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

The Bonds have been issued by the Issuer to aid in financing a housing project to provide dwelling accommodations for persons of low and moderate income.

As provided in the Bond Issuance Agreement, this Bond is subject to redemption, in whole or in part, and with or without premium, as specified and subject to the limitations set forth in the Bond Issuance Agreement.

This Bond and the rights and obligations of the parties hereunder shall be construed in accordance with and be governed by the laws of the State of Illinois, without regard to its conflict of laws principles.

The Bondholder shall note on the payment record attached as Schedule A hereto the date and amount of each payment of principal (whether at maturity or upon acceleration or prior redemption) and of interest paid, and of any principal and interest theretofore paid and not yet noted thereon. The information so recorded shall be rebuttable presumptive evidence of the accuracy thereof absent manifest error. The failure to so record any such information or any error in so recording any such information shall not, however, limit or otherwise affect the obligations of the Issuer hereunder to repay the principal amount hereunder together with all interest accruing hereon.

IN WITNESS WHEREOF, the City of Chicago has caused this Bond to be executed in its name by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its City Clerk, all as of the date of delivery of this Note.

(SEAL)

**CITY OF CHICAGO**

ATTEST:

\_\_\_\_\_  
Andrea M. Valencia, City Clerk

By: \_\_\_\_\_  
Carole L. Brown  
Chief Financial Officer

(Form of Fiscal Agent's Certificate of Authentication)

**CERTIFICATE OF AUTHENTICATION**

This Bond is one of the "Bonds" described in the within mentioned Bond Issuance Agreement.

**BMO HARRIS BANK N.A., as Fiscal  
Agent**

By: \_\_\_\_\_  
Authorized Signatory

Date of Authentication: ,2017

(End of Bond Form)

**EXHIBIT C**  
**LEGAL DESCRIPTION**



available exemption from the registration requirements of the 1933 Act, (ii) in accordance with any applicable state securities laws, and (iii) in accordance with the provisions of the Bonds and the Bond Issuance Agreement.

5. The Investor is a “qualified institutional buyer” as defined in Rule 144A promulgated under the 1933 Act (“Rule 144A”); it is aware that the sale of the Bonds to it is made in reliance on Rule 144A, and understands that the Bonds may be offered, resold, pledged or transferred only (1)(i) to a person who is a “qualified institutional buyer,” as defined in Rule 144A, in compliance with Rule 144A, or (ii) pursuant to another exemption from registration under the 1933 Act; and (2) as a whole in compliance with the Bonds, the Bond Issuance Agreement and applicable state securities laws.

6. If the Investor sells the Bonds (or any legal or beneficial interest therein), the Investor or its agent will obtain for your benefit, and deliver to you, from any subsequent purchaser a Qualified Transferee Letter in the form of Exhibit D to the Bond Issuance Agreement or such other materials (including, but not limited to, an opinion of counsel) as are required by you to evidence compliance of such sale and purchase with the requirements of the 1933 Act effecting an exemption from registration. The Investor hereby agrees to indemnify the Issuer against any costs to the Issuer resulting from any failure by the Investor to transfer the Bonds in accordance with the restrictions relating thereto set forth in the Bond Issuance Agreement and the Bonds.

Very truly yours,

[Name of Investor]

Dated: \_\_\_\_\_

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

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

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

## FORM OF INITIAL INVESTOR LETTER

City of Chicago  
Department of Finance  
121 N. LaSalle Street, 7<sup>th</sup> Floor  
Chicago, Illinois 60602  
Attention: Chief Financial Officer

Re: \$[Principal]  
City of Chicago  
Multi-Family Housing Revenue Bonds  
(Taylor Street Library and Apartments Project), Series 2017

The undersigned (the “Investor”) hereby represents and warrants to you as follows:

1. The Investor proposes to purchase the above-referenced Bonds (the “Bonds”) issued pursuant to that certain Bond Issuance Agreement, dated as of \_\_\_\_\_ 1, 2017 (the “Bond Issuance Agreement”), among the City of Chicago (the “Issuer”), BMO Harris Bank N.A., as Bondholder, and BMO Harris Bank N.A., as Fiscal Agent. The Investor understands that the Bonds have not been registered under the Securities Act of 1933, as amended (the “1933 Act”), or the securities laws of any state, and will be sold to the Investor as a whole in reliance upon certain exemptions from registration and in reliance upon the representations and warranties of the Investor set forth herein.

2. The Investor has sufficient knowledge and experience in business and financial matters in general, and investments such as the Bonds in particular, and is capable of evaluating the merits and risks involved in an investment in the Bonds. The Investor is able to bear the economic risk of, and an entire loss of, an investment in the Bonds. In the normal course of the Investor's business, the Investor invests in and purchases securities (including restricted securities) similar in investment character to the Bonds.

3. The Investor is purchasing the Bonds solely for its own account for investment purposes and has no intention to resell or distribute the Bonds; provided that the Investor reserves the right to transfer or dispose of the Bonds as a whole at any time, and from time to time, in its complete and sole discretion, subject, however, to the restrictions described in paragraphs 4, 5 and 7 of this letter.

4. The Investor agrees that it will only offer, sell, pledge, transfer or exchange the Bonds (or any legal or beneficial interest therein) (i) in accordance with an available exemption from the registration requirements of the 1933 Act, (ii) in accordance with any applicable state securities laws, and (iii) in accordance with the provisions of the Bonds and the Bond Issuance Agreement.



5. The Investor understands that the Bonds may be offered, resold, pledged or transferred only (1)(i) to a person who is a "qualified institutional buyer," as defined in Rule 144A (promulgated under the 1933 Act), in compliance with Rule 144A, or (ii) pursuant to another exemption from registration under the 1933 Act; and (2) as a whole in compliance with the Bonds, the Bond Issuance Agreement and applicable state securities laws.

6. The Investor acknowledges that it has had access to such financial and other information, and has been afforded the opportunity to ask such questions of representatives of the Issuer and the Borrower (as defined in the Bond Issuance Agreement), and receive answers thereto, as the Investor deems necessary in order to evaluate the merits and risks involved in an investment in the Bonds.

7. If the Investor sells the Bonds (or any legal or beneficial interest therein), the Investor or its agent will obtain for your benefit, and deliver to you, from any subsequent purchaser a Qualified Transferee Letter in the form of Exhibit D to the Bond Issuance Agreement, or such other materials (including, but not limited to, an opinion of counsel) as are required by you to evidence the compliance of such sale and purchase with the requirements of the 1933 Act effecting an exemption from registration. The Investor hereby agrees to indemnify the Issuer against any costs to the Issuer resulting from any failure by the Investor to transfer the Bonds in accordance with the restrictions relating thereto set forth in the Bond Issuance Agreement and the Bonds.

Very truly yours,

**BMO HARRIS BANK N.A.**

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

**EXHIBIT C**

**Form of Loan Agreement**

(See Attached)

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**LOAN AGREEMENT**

among

**CITY OF CHICAGO**

and

**TAYLOR STREET LA LLC,**  
an Illinois limited liability company

and

**BMO HARRIS BANK N.A.**

Dated as of \_\_\_\_\_ 1, 2017

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## LOAN AGREEMENT

This LOAN AGREEMENT, dated as of \_\_\_\_\_ 1, 2017 (this "Loan Agreement"), among the CITY OF CHICAGO, an Illinois municipal corporation and home rule unit of local government duly organized and validly existing under the Constitution and the laws of the State of Illinois (the "Issuer"), TAYLOR STREET LA LLC, an Illinois limited liability company (the "Borrower"), and BMO HARRIS BANK N.A., a national banking association (the "Bondholder"),

### WITNESSETH:

WHEREAS, as a home rule unit of local government and pursuant to the Constitution of the State of Illinois, the Issuer is authorized to issue its revenue notes and bonds in order to aid in providing an adequate supply of residential housing for low- and moderate-income persons or families within the City of Chicago, which constitutes a valid public purpose for the issuance of revenue notes and bonds by the Issuer; and

WHEREAS, the Issuer has determined to issue, sell and deliver its \$[Principal] Multi-Family Housing Revenue Bonds (Taylor Street Library and Apartments Project), Series 2017 (the "Bonds") pursuant to a Bond Issuance Agreement dated as of \_\_\_\_\_ 1, 2017 (the "Bond Issuance Agreement") among the Issuer, the Bondholder and BMO Harris Bank N.A., as Fiscal Agent, and to lend the proceeds thereof to the Borrower for the purpose of financing a portion of the cost of acquisition, construction and renovation of the Project (as defined in the Bond Issuance Agreement); and

WHEREAS, the Issuer and the Borrower have entered into this Loan Agreement providing for the loan of the proceeds of the Bonds to the Borrower for the purposes described in the preceding paragraph; and

WHEREAS, this Loan Agreement provides for the issuance by the Borrower of the Borrower Note (as hereinafter defined); and

WHEREAS, the Issuer will pledge and assign the Borrower Note and this Loan Agreement to the Bondholder under the Bond Issuance Agreement; and

WHEREAS, additional security for the repayment of the Borrower Note is provided by the Borrower pursuant to the Cash Collateral Agreement and certain Borrower Collateral Documents (as defined in the Bond Issuance Agreement);

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein, and for other good and valuable consideration (the receipt, sufficiency and adequacy of which are hereby acknowledged), the parties hereto agree as follows, provided that in the performance of the agreements of the Issuer herein contained, any obligation it may thereby incur for the payment of money shall not constitute an indebtedness or give rise to a pecuniary liability of the Issuer, the State of Illinois or any political subdivision thereof, or a charge against the Issuer's general credit or the taxing powers of the State of Illinois or any political subdivision thereof, but shall be payable solely and only from the Revenues (as defined in the Bond Issuance Agreement):

## ARTICLE I

### DEFINITIONS, INTERPRETATION AND EXHIBITS

Section 1.1. Definitions. Capitalized terms used in this Loan Agreement without definition shall have the respective meanings given to such terms in Exhibit A attached to the Bond Issuance Agreement unless the context or use clearly indicates another or different meaning or intent.

Section 1.2. Interpretation. In this Loan Agreement, except as otherwise expressly provided or unless the context clearly otherwise requires:

(a) the words “hereby,” “hereof,” “herein,” “hereunder” and any similar words used in this Loan Agreement refer to this Loan Agreement as a whole and not to any particular Article, Section or other subdivision, and the word “heretofore” shall mean before, and the word “hereafter” shall mean after, the date of this Loan Agreement, and the word “including” shall mean including, without limitation;

(b) all accounting terms not otherwise defined herein shall have the meanings assigned to them in accordance with generally accepted accounting principles (“GAAP”);

(c) any headings preceding the text of the several Articles and Sections of this Loan Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall neither constitute a part of this Loan Agreement nor affect its meaning, construction or effect; and

(d) any certificates, letters or opinions required to be given pursuant to this Loan Agreement shall mean a signed document attesting to or acknowledging the circumstances, representations, opinions of law or other matters therein stated or set forth or setting forth matters to be determined pursuant to this Loan Agreement.

## ARTICLE II

### LOAN TO BORROWER; REPAYMENT PROVISIONS

Section 2.1. Loan to Borrower, Purchase of Bond. The Issuer covenants and agrees to finance a portion of the Costs of the Project through the issuance of the Bonds pursuant to the Bond Issuance Agreement and the loan of the proceeds of the Bonds to the Borrower, such Loan to be advanced from time to time by making deposits into the Construction Fund and, subject to satisfaction of the conditions set forth in Articles X and XI hereof, disbursed and applied as provided in Article IX hereof. The Bondholder agrees to provide proceeds to the Issuer to effect such loan through its purchase of the Bonds in whole pursuant to the Bond Issuance Agreement.

Section 2.2. Repayment of Loan and Payment of Other Amounts.

(a) *Borrower Note*. In order to evidence its obligation to repay the Loan made hereunder by the Issuer, the Borrower shall authorize, execute and deliver the Borrower Note, which Borrower Note shall be in substantially the form attached hereto as Exhibit A. The terms

and conditions of the Borrower Note are hereby incorporated into this Section with the same effect as if fully set forth herein. The Borrower agrees to pay all of its obligations in full under this Loan Agreement and the Borrower Note, subject to Section 14.1 hereof.

(b) *Mandatory Payments under the Bonds.* It is the intent of the Borrower and the Issuer that, notwithstanding any schedule of payments contained in the Borrower Note, the payments to be made by the Borrower on the Borrower Note shall at all times be sufficient to enable the Issuer to pay when due the principal of and interest on the Bonds; provided, however, that if for any reason the funds available to the Issuer are at any time insufficient or unavailable to make any payment of the principal of or interest on the Bonds when due (whether at maturity or upon redemption or acceleration), the Borrower shall forthwith pay directly to the Bondholder, in immediately available funds, the amount required to make up such deficiency, or shall take such other action as may be necessary to make sufficient funds available to make such payment. All such payments made to the Bondholder with respect to the Bonds shall be made by the Borrower on behalf of the Issuer, shall be deemed a credit against the Liabilities, and shall be applied against the Issuer's payment obligations under Bonds.

(c) *Payments to Fiscal Agent.* The Borrower shall pay to the Fiscal Agent until the principal of and interest on the Borrower Note shall have been fully paid, the reasonable fees, charges and expenses (if any) of the Fiscal Agent, as fiscal agent and Bond registrar, as and when the same become due. The Borrower further agrees to indemnify the Fiscal Agent for, and to defend and hold the Fiscal Agent harmless against, any loss, liability or expense incurred without negligence or bad faith on its part, arising out of or in connection with its powers or duties hereunder and under the Bond Issuance Agreement, including, but not limited to, the cost and expenses of defending itself against any claim or liability in connection with the exercise of any of such powers or performance of any such duties.

(d) *Payments to Issuer.* The Borrower shall pay to the Issuer (i) an Issuer fee equal to 1.5% of the authorized stated principal amount of the Bonds plus a fee of 0.0010% (10 basis points) of the authorized stated principal amount of the Bonds, payable on the Closing Date, and (ii) an annual administrative fee equal to 0.0015% (15 basis points) of the then outstanding principal amount of the Bonds, which shall accrue monthly and be payable semi-annually on each \_\_\_\_ 1 and \_\_\_\_ 1, commencing \_\_\_\_ 1, 2018, while the Bonds are outstanding.

Section 2.3. Payment. (a) *Payments under the Borrower Note.* The Borrower will promptly and punctually pay all amounts payable with respect to the Borrower Note, without any presentment of the Borrower Note, notice of nonpayment (except as otherwise expressly set forth therein), notice of dishonor or notice of protest, and without any notation of such payment being made thereon, directly to the Bondholder in immediately available funds by wire transfer originated by the Borrower not later than 12:00 noon, Chicago, Illinois time, on each payment date, such payment to be marked for attention as indicated, or by charging an account of the Borrower established with the Bondholder, which charge is hereby authorized by the Borrower. The Borrower Note is subject to assignment as set forth in Section 4.2 hereof. Payments with respect to the Borrower Note shall be made by wire transfer pursuant to the wire transfer instructions attached hereto as **Exhibit D**, or such other replacement wire transfer instructions as shall be provided in writing by Bondholder to Borrower.

(b) *Payments Due on Saturdays, Sundays and Holidays.* In any case where the date of payment of principal of or interest on the Borrower Note or the Bonds, or the date fixed for prepayment of all or a portion of the Borrower Note or the Bonds, as applicable, shall be other than a Business Day, then such payment need not be made on such date but may be made on the next succeeding Business Day, and the Borrower Note and the Bonds shall continue to bear interest until such date of actual payment.

(c) *Payment Notations.* The Bondholder shall make a notation on the Borrower Note on the payment record thereon, or in the Bondholder's books and records, of each principal and interest payment made pursuant to this Section 2.2 and the date to which interest has been paid. The information so recorded shall be rebuttable presumptive evidence of the accuracy thereof. The failure to so record any such information, or any error in so recording any such information, shall not, however, limit or otherwise affect the obligations of the Borrower hereunder or under the Borrower Note to repay the principal balance thereof together with all interest accruing thereon.

(d) *Manner of Payment.* The principal of and interest on the Borrower Note shall be payable in lawful money of the United States of America; such principal and interest shall be payable at the principal office of the Bondholder.

(e) *Return of Collateral.* Upon payment in full of the Borrower Note and termination of this Loan Agreement, the Issuer shall or shall cause the Fiscal Agent to, on a timely basis, reassign and redeliver (or cause to be reassigned and redelivered) to the Borrower, or to such Person or Persons as the Borrower shall designate, against receipt, such of the collateral (if any) assigned by the Borrower to the Issuer as shall not have been sold or otherwise applied by the Issuer pursuant to the terms hereof and as shall still be held by it or the Fiscal Agent hereunder, together with appropriate instruments of reassignment and release, including, without limitation, UCC termination statements; it shall be the obligation of the Borrower to provide all such instruments of reassignment and release. Any such reassignment shall be without recourse upon, or representation or warranty by, the Issuer, and shall be at the cost and expense of the Borrower. If a claim is made upon the Issuer (or any assignee of the Issuer, including, but not limited to, the Bondholder) at any time for recovery of any amount received by the Issuer (or such assignee) in payment of the Borrower Note, whether received from the Borrower or otherwise (a "Recovery Claim"), and should the Issuer (or such assignee) repay all or part of said amount by reason of: (i) any judgment, decree or order of any court or administrative body having jurisdiction over the Issuer or any assignee of the Issuer, or the Property of either thereof; or (ii) any settlement or compromise of any such Recovery Claim effected by the affected party with the claimant (including the Borrower), this Loan Agreement, the Borrower Collateral Documents and the Security for the Bonds shall continue in effect with respect to the amount so repaid to the same extent as if such amount had never originally been received by the Issuer or such assignee, notwithstanding any prior termination of this Loan Agreement, the return of this Loan Agreement, the Borrower Collateral Documents or any of the Security for the Bonds to the Borrower (or any designee of the Borrower), or the cancellation of the Borrower Note.

Section 2.4. Interest Rates. The interest rate per annum payable on the Borrower Note shall be equal to the interest rate payable from time to time on the Bonds as provided in Article II

of the Bond Issuance Agreement. Interest on the Borrower Note shall be payable at such times as interest is payable on the Bonds under the provisions of the Bond Issuance Agreement.

Section 2.5. Interest on Amounts Past Due. Notwithstanding anything in this Article II to the contrary, if the Borrower shall fail to make any of the payments required to be made by it under this Agreement or under the Borrower Note, including, without limitation, any mandatory prepayments required by Section 3.1(b) of this Agreement, such payments shall continue as an obligation of the Borrower until the unpaid amount so overdue shall have been fully paid, and interest on the Borrower Note shall continue to accrue from the date such payment was due until the date such payment is made or the date the Borrower Note has been repaid in full, whichever is earlier, at the applicable Past Due Rate described in Section 2.03(f) of the Bond Issuance Agreement with respect to interest on overdue payments under the Bonds.

Section 2.6. Application of Payments. All payments on account of indebtedness outstanding under the Borrower Note shall be first applied to interest on the unpaid principal balance, and the remainder to the unpaid principal balance, of the Borrower Note.

Section 2.7. Event of Default under the Bond Issuance Agreement. Upon a declaration of acceleration by the Bondholder under Section 7.02 of the Bond Issuance Agreement, an amount equal to the outstanding principal of the Borrower Note, together with accrued interest due thereon, shall become immediately due and payable hereunder, and thereafter, to the extent not previously issued, the Issuer shall be under no obligation to issue further Bonds or make further Loans (or disbursement of Loans) of the proceeds thereof.

Section 2.8. No Defense or Set-off; Unconditional Obligation. (a) The obligation of the Borrower to make the payments required to be made by it herein, the obligation of the Borrower to make the payments pursuant to the Borrower Note, and the obligation of the Borrower to perform and observe fully all other agreements, obligations and covenants on its part contained herein shall be absolute and unconditional, irrespective of any defense or any rights of set-off, recoupment, abatement or counterclaim it might otherwise have against the Issuer, the Fiscal Agent or the Bondholder.

(b) Subject to Section 14.1 hereof, the Borrower covenants and agrees with and for the express benefit of the Issuer and the Bondholder that all payments pursuant hereto and the Borrower Note shall be made by the Borrower on or before the dates the same become due, and the Borrower shall perform all of its other obligations, covenants and agreements hereunder, without notice or demand (except as provided herein), and without abatement, deduction, reduction, diminishment, waiver, abrogation, set-off, counterclaim, recoupment, defense or other modification, or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and regardless of any act of God, contingency, event or cause whatsoever, and irrespective (without limitation) of whether any portion of the Project shall have been started or completed, or whether the title to any portion of the Premises or the Project is defective or nonexistent, or whether the revenues of the Borrower are sufficient to make such payments, and notwithstanding any damage to, or loss, theft or destruction of, the Premises or the Project, or any part thereof, expiration of this Loan Agreement, any failure of consideration or frustration of purpose, the taking by eminent domain or otherwise of title to or of the right of temporary use of, all or any part of Premises or the

Project, legal curtailment of the use thereof, any assignment, novation, merger, consolidation, transfer of assets, leasing or other similar transaction of or affecting the Borrower, the Premises or the Project, whether with or without the approval of the Issuer, any change in the tax or other laws of the United States of America, the State of Illinois or any political subdivision of either thereof, any change in the Issuer's legal organization or status, or any default of the Issuer hereunder, and regardless of the invalidity of any portion of this Loan Agreement or the Bond Issuance Agreement, or any other document or instrument referred to herein or therein; and, to the extent legally permissible, the Borrower hereby waives the provisions of any statute or other law now or hereafter in effect impairing or conflicting with any of its obligations, covenants or agreements under this Loan Agreement or the Borrower Note, or which releases or purports to release the Borrower herefrom or therefrom. Nothing in this Loan Agreement shall be construed as a waiver by the Borrower of any rights or claims the Borrower may have against the Issuer under this Loan Agreement or otherwise, but any recovery upon such rights and claims shall be had from the Issuer separately, it being the intent of this Loan Agreement that, except as provided in Section 14.1 hereof, the Borrower shall be unconditionally and absolutely obligated, without right of set-off or abatement, to perform fully all of its obligations, agreements and covenants under this Loan Agreement and the Borrower Note for the benefit of the Issuer and the Bondholder.

### ARTICLE III

#### PREPAYMENT OF THE BORROWER NOTE

##### Section 3.1. Prepayment of the Borrower Note.

(a) *Optional Prepayment.* The Borrower may prepay, in whole or in part, on any Business Day, the principal amount of any Borrower Note then outstanding, at a prepayment price of 100% of the principal amount thereof being prepaid (such optional prepayments to be applied to the redemption of the Bonds as provided in Section 3.01 of the Bond Issuance Agreement).

(b) *Mandatory Prepayment.* The Borrower Note is subject to mandatory prepayment, without premium or penalty, prior to the Maturity Date on each date that the Bonds are subject to mandatory redemption pursuant to Section 3.02 of the Bond Issuance Agreement in the principal amounts specified therein.

(c) In the event of any prepayment hereunder, the Borrower shall pay to the Bondholder all accrued and unpaid interest through the date of such prepayment on the principal balance of the Borrower Note being prepaid.

Section 3.2. Surrender of Borrower Note on Prepayment. Upon any partial prepayment of the Borrower Note, the Borrower Note may, at the option of the Issuer and the Bondholder (subject to assignment as set forth in Section 4.2 hereof), be surrendered to the Borrower in exchange for a new Borrower Note, of the same series, maturity date and interest rate, and in principal amount equal to the unpaid principal balance thereof; provided that the Borrower executes such documents, instruments, certificates and agreements that the Bondholder may deem necessary or appropriate, and reimburses the Issuer and the Bondholder for any reasonable

cost or expense, including, without limitation, reasonable attorneys' fees and expenses. If the entire unpaid principal balance of the Borrower Note is prepaid, the Borrower Note shall be cancelled by the Bondholder and surrendered to the Borrower, and shall not be so exchanged.

Section 3.3. Funding Losses. Subject to Section 14.1 hereof, the Borrower hereby agrees to indemnify the Bondholder upon demand against any loss or expense that the Bondholder may sustain or incur, including, without limitation, reasonable attorneys' fees and expenses, in obtaining, liquidating or employing deposits or other funds acquired to effect, fund or maintain the Loan and/or the Bonds as a consequence of (a) any failure of the Borrower to make any payment when due of any amount due under the Borrower Note, or (b) any payment or prepayment of the Loan and/or the Bonds on a date other than the scheduled payment dates therefor. Determinations by the Bondholder, for purposes of this subsection, of the amount required to indemnify the Bondholder shall be conclusive in the absence of manifest error.

Section 3.4. Rate Management Agreements. Nothing contained in this Article III shall be construed to alter or obviate any payment obligations of the Borrower arising pursuant to any Rate Management Agreement.

## **ARTICLE IV**

### **LIMITED OBLIGATION; ASSIGNMENT BY ISSUER**

Section 4.1. Limited Obligation of Issuer. The obligations of the Issuer under this Loan Agreement are special, limited obligations of the Issuer, payable solely out of the Revenues. The obligations of the Issuer hereunder shall not be deemed to constitute an indebtedness or an obligation of the Issuer, the State of Illinois or any political subdivision thereof within the meaning of any constitutional limitation or statutory provision, or a charge against the credit or general taxing powers, if any, of any of them.

Section 4.2. Assignment of Issuer's Rights. As security for the payment of the Bonds, the Issuer will, pursuant to the Bond Issuance Agreement, assign and pledge to the Bondholder all of the Issuer's right, title and interest in and to this Loan Agreement and the Borrower Note, except that it will retain the Issuer Reserved Rights, but such retention by the Issuer will not limit in any way the exercise by the Bondholder of its rights hereunder, under the Bond Issuance Agreement, the Borrower Note, the Bonds and the Security for the Bonds. Notwithstanding anything herein to the contrary, the Issuer hereby directs the Borrower to make all payments under this Loan Agreement (except with respect to the Issuer Reserved Rights) and the Borrower Note directly to the Bondholder. The Borrower hereby acknowledges and consents to such pledge and assignment, and agrees to make payments directly to the Bondholder (except with respect to the Issuer Reserved Rights), without defense or set-off, recoupment or counterclaim by reason of any dispute between the Borrower on the one hand, and the Bondholder, the Fiscal Agent or the Issuer on the other hand, or otherwise. After any such assignment and pledge referenced in this Loan Agreement, the Bond Issuance Agreement, the Bonds, the Borrower Note or the Security for the Bonds, all rights, interest and benefits accruing to the Issuer under this Loan Agreement or the Borrower Note, except for the Issuer Reserved Rights, shall be assigned to and become the rights and benefits of the Bondholder. Any obligations of the Issuer as provided in the Bond Issuance Agreement, this Loan Agreement, the Bonds or the Borrower

Note shall remain the obligations of the Issuer to the extent provided herein and therein after such assignment. The Issuer agrees that the Bondholder, in its name or in the name of the Issuer, may enforce all rights of the Issuer (other than the Issuer Reserved Rights) and all obligations of the Borrower under and pursuant to the assigned documents as aforesaid, and the Issuer will not enforce such rights and obligations itself except at the written direction of the Bondholder, in each case whether or not the Issuer is in Default hereunder.

## **ARTICLE V**

### **REPRESENTATIONS AND WARRANTIES OF ISSUER**

The Issuer hereby represents and warrants as follows (which representations and warranties shall survive the execution and delivery hereof, the making of the Loan and the issuance of the Borrower Note):

Section 5.1. Organization and Authority. The Issuer is a municipal corporation and home rule unit of local government duly organized and validly existing under the Constitution and laws of the State of Illinois. Under the Constitution and laws of the State of Illinois, the Issuer has the power to enter into the transaction contemplated by this Loan Agreement, the Bond Issuance Agreement, the Bonds and the Issuer Documents, and to carry out its obligations hereunder and thereunder, including the full right, power and authority to pledge and assign this Loan Agreement and the Borrower Note to the Bondholder as provided herein. By proper action of the City Council of the Issuer, the Issuer has been duly authorized to execute and deliver this Loan Agreement, the Bonds, the Bond Issuance Agreement and the Issuer Documents.

Section 5.2. Amount of Bonds; Proceeds. The Bonds are being issued in the principal amount of up to \$[Principal], will mature and bear interest as set forth in Article II of the Bond Issuance Agreement, and will be subject to redemption prior to maturity as set forth in Article III of the Bond Issuance Agreement. The proceeds of the sale of the Bonds will be lent to the Borrower for the purpose of paying Costs of the Project.

Section 5.3. Issuance. The Bonds are to be issued under home rule powers of the Issuer under the Constitution of the State of Illinois and secured by the Bond Issuance Agreement, pursuant to which the right, title and interest of the Issuer in, to and with respect to this Loan Agreement, the Borrower Note, the Borrower Collateral Documents and the Security for the Bonds (other than with respect to the Issuer Reserved Rights) will be assigned and pledged to the Bondholder as security for payment of the principal of and interest on the Bonds as provided in the Bond Issuance Agreement.

Section 5.4. Non-Assignment. The Issuer has not assigned or pledged, and will not assign or pledge, its interest in this Loan Agreement, the Borrower Note, the Borrower Collateral Documents (if any) and the Security for the Bonds other than to secure the Bonds.

Section 5.5. Purposes. The Issuer hereby finds and determines that the Project is in the best interests of the Issuer, and that all requirements of the Constitution and laws of the State of Illinois have been complied with.



Section 5.6. No Conflict. To the knowledge of the undersigned representatives of the Issuer, neither the execution and delivery of this Loan Agreement, the Bonds or the Bond Issuance Agreement, the consummation of the transactions contemplated hereby or thereby, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Issuer is now a party or by which it or any of its Property is bound, or constitutes a default under any of the foregoing. THE ISSUER MAKES NO REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE CREDITWORTHINESS OR THE ABILITY OF THE **BORROWER** TO MAKE THE PAYMENTS DUE UNDER THIS LOAN AGREEMENT OR THE **BORROWER** NOTE AND DOES NOT REPRESENT OR WARRANT AS TO ANY OF THE STATEMENTS, MATERIALS (FINANCIAL OR OTHERWISE), REPRESENTATIONS OR CERTIFICATIONS FURNISHED OR TO BE MADE AND FURNISHED BY THE BORROWER IN CONNECTION WITH THE ISSUANCE, SALE, EXECUTION AND DELIVERY OF THE BONDS, OR AS TO THE CORRECTNESS, COMPLETENESS OR ACCURACY OF SUCH STATEMENTS.

Section 5.7. No Litigation. To the knowledge of the undersigned representatives of the Issuer, there is no action, suit, proceeding or investigation pending or threatened against the Issuer that seeks to restrain or enjoin the issuance or delivery of the Bonds, or the execution and delivery of the Bond Issuance Agreement, this Loan Agreement or the Issuer Documents, or that in any way contests or affects any authority for the issuance or delivery of the Bonds, or the execution and delivery of the Bond Issuance Agreement, this Loan Agreement or the Issuer Documents, or the validity of the Bonds, the Bond Issuance Agreement, this Loan Agreement or in any way contests the corporate existence or powers of the Issuer, or in any way affects the exclusion from gross income for Federal income tax purposes of interest on the Bonds.

Section 5.8. Location of the Project. The Project is located entirely within the corporate boundaries of the City of Chicago, Illinois.

## ARTICLE VI

### REPRESENTATIONS AND WARRANTIES OF BORROWER

To induce the Issuer to issue, and the Bondholder to purchase, the Bonds, the Borrower hereby represents and warrants to the Issuer and the Bondholder as follows:

Section 6.1. Organization and Authority. (a) The Borrower is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Illinois. The General Partner is a limited liability company, duly organized and is validly existing and in good standing under the laws of the State of Illinois.

(b) The Borrower (i) is authorized to do business in the State of Illinois and every other jurisdiction in which the nature of its business or its properties makes such qualification necessary; (ii) has full power and authority to own its properties and to conduct its business as now being conducted, and to enter into, and to perform and observe in all material respects the covenants and agreements in its part contained in, this Loan Agreement, the

Borrower Note and the Borrower Documents; and (iii) is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to it.

(c) The Managing Member (i) is authorized to do business in the State of Illinois and every other jurisdiction in which the nature of its business or its properties makes such qualification necessary; (ii) has full power and authority to own its properties and to conduct its business as now being conducted and to enter into, and to perform and observe in all material respects the covenants and agreements in its part contained in the Borrower Documents; and (iii) is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to it.

Section 6.2. Private Placement. Neither the Borrower nor any agent or representative thereof has offered the Borrower Note to any Person other than the Issuer and the Bondholder.

Section 6.3. Borrowing Legal and Authorized. The Borrower's execution and delivery of, performance by, compliance with this Loan Agreement, the Borrower Note and the Borrower Documents, and the consummation of the transactions provided for herein and therein: (a) are within the Borrower's powers as an Illinois limited liability company; (b) have been duly authorized; (c) require no approval of any Governmental Body or other Person (other than approval of the Borrower's members, which has already been obtained); (d) do not and will not contravene or conflict with (i) the Operating Agreements of the Borrower or the Managing Member, (ii) any Government Regulation to which it is subject, (iii) any judgment, decree, order or contractual restriction binding on or affecting the Borrower or the Managing Member, or the Project, or (iv) any material agreement, indenture, instrument or other document that is binding upon Borrower or any of Borrower's Property; and (e) do not and will not contravene or conflict with, or cause any Lien upon or with respect to any of the Borrower's Property (including, but not limited to, the Project), other than as permitted in writing by the Bondholder or as expressly permitted hereunder.

Section 6.4. Validity; Binding Nature; Approvals. The Borrower Documents are the legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their respective terms. No order, authorization, consent, license or exemption of, or filing or registration with, any court or Governmental Body, or any other approval which has not been obtained or taken and is not in full force and effect, is required to authorize, or is required in connection with the execution, delivery and performance by the Borrower of the Borrower Documents (except for those which are not yet required to have been obtained in connection with the acquisition, construction, and renovation of the Project).

Section 6.5. Bond Counsel May Rely on Representations and Warranties. The Borrower agrees that Bond Counsel shall be entitled to rely upon the factual representations and warranties of the Borrower set forth in this Article VI in connection with the delivery of legal opinions on the respective dates of the issuance of the Bonds.

Section 6.6. Pending Litigation. There is no pending action or proceeding before or by any court, Governmental Body or arbitrator against or directly involving the Borrower or the Managing Member, and, to the best of the Borrower's knowledge, there is no threatened action or proceeding, or inquiry that might give rise thereto, materially affecting the Borrower or any of

its Properties, or the Managing Member, before any court, Governmental Body or arbitrator. The Borrower does not know of any basis for any of the foregoing: (a) that, in any case, may materially and adversely affect the financial condition or operation of the Borrower or the Managing Member; (b) that, in any case, may seek to restrain, or would otherwise have a material adverse effect on, the transactions contemplated herein; or (c) that, in any case, would affect the validity or enforceability of the Borrower Documents.

Section 6.7. Filing and Payment of Tax Reports and Returns. The Borrower has filed or caused to be filed all federal, state and local tax reports and returns which are required to be filed, and has paid or caused to be paid all taxes as shown on said returns or which are due or on any assessment received by it.

Section 6.8. Full Disclosure. To the best of the Borrower's knowledge after due diligence and reasonable investigation, neither this Loan Agreement nor any written statement furnished by the Borrower to the Issuer or the Bondholder in connection with the negotiation of the sale of the Bonds contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained therein or herein not misleading. To the best of the Borrower's knowledge, the Borrower has disclosed to the Bondholder in writing all facts that might materially and adversely affect the transactions contemplated by this Loan Agreement, or that might materially and adversely affect the business, credit, operations, financial condition or prospects of the Borrower, or that might materially and adversely affect any material portion of the Borrower's Properties (including, but not limited to, the Project), or the Borrower's ability to perform its obligations under the Borrower Documents.

Section 6.9. No Defaults. To the best of the Borrower's knowledge, the Borrower is not in default in the payment or performance of any of its obligations, liabilities or indebtedness, or the performance of any mortgage, indenture, lease, contract or other agreement, instrument or undertaking to which it is a party or by which it or any of its Properties may be bound, which default would have a material and adverse effect on the business, operations, Property or condition, financial or otherwise, of the Borrower. To the best of the Borrower's knowledge, no event, act or condition exists that would constitute a Default or an Event of Default hereunder. To the best of the Borrower's knowledge, the Borrower is not in default under any order, award or decree of any court, arbitrator or Governmental Body binding upon or affecting it, or by which any of its Properties may be bound or affected, which default would have a material adverse effect on the business, operations, Property or condition, financial or otherwise, of the Borrower, and no such order, award or decree adversely affects the ability of the Borrower to carry on its business as currently conducted or the ability of it to perform its obligations under this Loan Agreement, the Borrower Note, the Borrower Collateral Documents, the Security for the Bonds and the Borrower Documents.

Section 6.10. Governmental Consent. Neither the nature of the Borrower nor of any of its activities or Properties, nor any relationship between the Borrower and any other Person, or any circumstances in connection with the execution and delivery by the Borrower of the Borrower Documents, or the performance or observance of any covenants or agreements required to be observed or performed by such Borrower under the Borrower Documents, requires the consent, approval or authorization of, or filing, registration or qualification with, any Governmental Body on the part of the Borrower as a condition to the execution and delivery of

the Borrower Documents (except for those which are not yet required to have been obtained in connection with the acquisition, construction and renovation of the Project).

Section 6.11. Compliance with Law. To the best of the Borrower's knowledge, the Borrower is currently in compliance with all Government Regulations to which it is subject, and has obtained and shall continue to maintain all licenses, permits, franchises or other governmental authorizations necessary for the ownership of its Property or the conduct of its activities, non-compliance with which or failure to obtain which might materially adversely affect the ability of the Borrower to conduct its activities as currently conducted or the financial condition of the Borrower.

Section 6.12. Restrictions on the Borrower. The Borrower is not a party to any contract or agreement, or subject to any charter or other restriction, that materially and adversely affects (within the sole discretionary judgment of the Bondholder) its ability to perform its obligations under this Agreement. The Borrower is not a party, or otherwise subject, to any provision contained in any instrument evidencing Indebtedness, any agreement relating thereto or any other contract or agreement (including its Operating Agreement) that restricts or otherwise limits the incurring of the Indebtedness to be represented by the Borrower Documents. The Borrower possesses all rights and properties necessary for the conduct of its business as currently conducted and as intended to be conducted.

Section 6.13. No Conflict of Interest. No member of the governing body of the Issuer or any elected or salaried officer or official of the Issuer has any interest (financial, employment or other) in the Borrower, the Project or the transactions contemplated by the Borrower Documents.

Section 6.14. Project Compliance. To the best of the Borrower's knowledge, the Project will not violate any existing Government Regulation with respect thereto, and the anticipated use of the Project complies with all existing applicable ordinances, regulations and restrictive covenants affecting the Project, and all requirements of such use that can be satisfied prior to completion of construction have been satisfied.

Section 6.15. Eminent Domain; Damage; Code Violations. The Borrower has not received notice of, and has no knowledge of: (a) any proceedings, whether actual, pending or threatened, for the taking under the power of eminent domain or any similar power or right, of all or any portion of the Project; (b) any damage to or destruction of any portion of the Project; or (c) any zoning, building, fire or health code violations in respect of the Project that have not heretofore been corrected or that are not scheduled to be corrected in connection with the renovation of the Project.

Section 6.16. Permits and Licenses. All building, zoning, safety, health, fire, water district, sewerage and environmental protection agency permits and other licenses and permits that are required by any Governmental Body for the construction, use, occupancy and operation of the Project have been obtained and are in full force and effect (except for those which are not yet required to have been obtained in connection with the acquisition, construction, and renovation of the Project, and which will be obtained at or prior to the time required by law in connection with the acquisition, construction, and renovation of the Project).

Section 6.17. Financial Statements. All balance sheet, income statements, statements of cash flow and other financial data that have been or shall hereafter be furnished to the Bondholder for the purposes of or in connection with this Loan Agreement do and will present fairly in accordance with GAAP, consistently applied, the financial condition of the Borrower as of the dates thereof and the results of its operations for the periods covered thereby.

Section 6.18. Broker's Fees. Other than with respect to any term sheet proposal deposit and the origination fee being paid by the Borrower in connection with the purchase of the Bonds by the Bondholder, the Borrower has no obligation to any Person in respect of any finder's, broker's or similar fee in connection with the Borrower Documents.

Section 6.19. Anti-Terrorism Laws. (a) The Borrower and each Affiliate of the Borrower are not in violation in any material respects of any United States requirements of law relating to terrorism, sanctions or money laundering (the "Anti-Terrorism Laws"), including the United States Executive Order No. 13224 on Terrorist Financing (the "Anti-Terrorism Order") and the Patriot Act.

(b) The Borrower and each Affiliate of the Borrower (i) are not listed in the annex to, or is otherwise subject to the provisions of, the Anti-Terrorism Order, (ii) are not owned or controlled by, or acting for or on behalf of, any person listed in the annex to, or is otherwise subject to the provisions of, the Anti-Terrorism Order, (iii) do not commit, threaten or conspire to commit or supports "terrorism" as defined in the Anti-Terrorism Order or (iv) are not named as a "specially designated national and blocked person" in the most current list published by Office of Foreign Assets Control ("OFAC").

(c) The Borrower and each Affiliate of the Borrower (i) do not conduct any business or engage in making or receiving any contribution of funds, goods or services to or for the benefit of any person described in clauses (b)(i) through (b)(iv) above, (ii) do not deal in, or otherwise engage in any transactions relating to, any property or interests in property blocked pursuant to the Anti-Terrorism Order and (iii) do not engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

Section 6.20. Patriot Act. The Borrower and each Affiliate of the Borrower are in compliance with (a) the Trading with the Enemy Act, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B Chapter V, as amended) and any other enabling legislation or executive order relating thereto, (b) the Patriot Act and (c) other federal or state laws relating to "know your customer" and anti-money laundering rules and regulations. No part of the proceeds of the Bonds will be used directly or indirectly for any payments to any government official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977.

Section 6.21. Project Contracts: Development Cost Budget. To Borrower's knowledge, the construction contract with the General Contractor, architect's agreement and other material agreements, consents, waivers, documents and writings of every kind or character to which

Borrower is a party relating to the Project (collectively, the "Project Contracts") or which at any time have been delivered to Bondholder pursuant to any of the provisions of this Agreement are valid and enforceable against the Borrower and are enforceable against all other parties thereto, and in all material respects are what they purport to be, and to the extent that any such writing shall impose any obligation or duty on the Borrower or constitute a waiver of any rights which the Borrower might otherwise have, said writing shall be valid and enforceable against the Borrower in accordance with its terms. True and correct copies of all of Project Contracts executed by the Borrower on or prior to the date hereof have been delivered to Bondholder by the Borrower prior to the date hereof. The Development Cost Budget for the Project is true and complete in all material respects and sufficient finally and fully to pay for the acquisition and the construction of the Project and the payment of all costs and expenses incurred or estimated to be incurred in connection with the Project in accordance with the terms and conditions hereof.

Section 6.22. Business Loan. The Borrower Note and the Bonds, including the interest rates thereon, (i) are each a business loan within the purview of 815 ILCS 205/4(1)(c), as amended from time to time, (ii) are each an exempted transaction under the Truth In Lending Act, 12 U.S.C. 1601 et seq., as amended from time to time, and (iii) do not, and when disbursed shall not, violate the provisions of the Illinois usury laws, any consumer credit laws or the usury laws of any state which may have jurisdiction over this transaction or the Borrower.

Section 6.23. Survival. The representations and warranties set forth in this Article VI shall survive until all Liabilities have been indefeasibly paid in full.

Section 6.24. Remaking of Representations and Warranties. At the time of making of each disbursement pursuant to Section 9.3, the Borrower shall be deemed to have remade each of the representations and warranties contained in this Article VI with the same effect as though made on the date of such disbursement.

## ARTICLE VII

### COVENANTS OF BORROWER

Section 7.1. Tax-Exempt Status of the Bonds. The proceeds of the Bonds will be used in a manner consistent with the representations of the Borrower contained herein and the Tax Certificate. The Borrower shall not use the Project, or permit the Project to be used, in such a way as would result in the loss of the exclusion from gross income for Federal income tax purposes of interest on the Bonds, and will not act in any manner that would adversely affect the exclusion from gross income for Federal income tax purposes of interest on the Bonds.

Section 7.2. Taxes, Charges and Assessments. The Borrower shall pay or cause to be paid on or before the date they become due, all taxes (except taxes imposed on gross or net income), duties, charges, assessments and impositions on, or on account of, the use, occupancy or operation of the Project, and on any payments under this Loan Agreement or under the Borrower Note. The Borrower shall promptly pay when due all amounts except such as the Borrower is diligently contesting in good faith and by appropriate proceedings; provided that the Borrower has provided for and is maintaining adequate reserves with respect thereto in

accordance with GAAP or a bond or other acceptable form of security to assure payment is made.

Section 7.3. Compliance with Orders, Ordinances, Etc. The Borrower shall, at its sole cost and expense, comply with all current and future applicable Government Regulations, the failure to comply with which would materially and adversely affect the Project or the use, occupancy or condition thereof. The Borrower shall have the right to contest any such Government Regulation and, in the event of any such contest, may refrain from complying therewith during the period of such contest and any appeal therefrom; provided that it has furnished additional security satisfactory to the Bondholder for any loss or damage that the Bondholder may sustain by reason of such non-compliance.

Section 7.4. Books, Records and Inspections. The Borrower shall maintain complete and accurate books and records (including records relating to the Project), and, during reasonable times and upon reasonable notice (except upon an Event of Default when no such notice shall be required), shall permit the Issuer and the Bondholder to have full and complete access to such books and records of the Borrower, and shall permit the Issuer and the Bondholder to visit, audit, examine, copy and inspect, as applicable, the Borrower's books and records, offices, Premises and operations, at the sole cost and expense of the Borrower. The Issuer and the Bondholder have no duty to visit the Premises, to supervise or observe construction or to examine any books or records. Any site visit, observation or examination by the Issuer or the Bondholder is solely for the purpose of protecting their respective rights and interests. No site visit, observation or examination by the Issuer or the Bondholder will impose any liability on the Issuer or the Bondholder or result in a waiver of any Event of Default of the Borrower or be a representation that the Borrower is or will be in compliance with the approved Plans and Specifications for the Project, that the construction of the Project is free from defective materials or workmanship, or that the construction complies with all applicable laws, ordinance and regulations. Neither the Borrower, nor any other party, is entitled to rely on any site visit, observation or examination by the Issuer or the Bondholder. The Issuer and the Bondholder owe no duty of care to protect the Borrower or any other party against, or to inform the Borrower or any other party of, any negligent or defective design or construction of the Project or any other adverse condition affecting the Premises.

Section 7.5. Change in Nature of Operations. The Borrower shall not make any material change in the nature of its operations carried on as of the date of issuance of the Bonds unless consented to in writing by the Issuer and the Bondholder.

Section 7.6. Borrower to Maintain Existence; Consolidation or Merger. Absent the prior written consent of the Bondholder, the Borrower shall, as long as the Bonds are outstanding, maintain its existence, not dissolve, liquidate, transfer any membership except as provided herein or other equity interest in the Borrower or otherwise dispose of all or substantially all of its assets, and not consolidate with or merge into another business entity or permit one or more other business entities to consolidate with or merge into it. Notwithstanding anything to the contrary contained herein, the Investor Member shall be permitted to remove the Managing Member and replace the Managing Member with an affiliate of the Investor Member in accordance with the Operating Agreement without the consent of the Bondholder, provided that (a) the membership interests of any such substitute General Partner shall be subject to the

Bondholder's security interests pursuant to the terms of the Security Agreement, and (b) any such substitute Managing Member shall execute any and all documents, including security agreements and financing statements, as the Bondholder may reasonably request in order to create, perfect, or continue such security interests. Notwithstanding the foregoing, the substitute Managing Member shall assume all the rights and obligations of the Managing Member under all of the Loan Documents.

After all equity contributions have been made pursuant to the terms and conditions of the Partnership Agreement, such Investor Member interests shall be transferable without the consent of either the Bondholder or the Issuer. Notwithstanding the foregoing, the Investor Member interests shall be transferable at any time without the consent of the Issuer or the Bondholder, so long as such interest is transferred to an affiliate of the Investor Member; provided, however, that any other Investor Member transfers prior to the payment of the equity contribution shall require Bondholder and Issuer consent.

The Borrower shall be permitted to amend the Operating Agreement to reflect such removal and substitution of the Managing Member or permitted transfer of the Investor Member's interests without the consent of the Issuer or the Bondholder to the extent such transfer is permitted without consent as provided above.

Section 7.7. Transfer of Project. Absent the prior written consent of the Bondholder and the Issuer, the Borrower shall not sell, transfer or otherwise dispose of the Project or any portion thereof (other than sales or other dispositions of obsolete equipment or fixtures in the ordinary course of business) while the Bonds are Outstanding.

Section 7.8. Environmental Requirements; Indemnity.

(a) As between the Issuer and the Borrower, the Issuer and the Borrower agree and understand that the terms and provisions of the Environmental Indemnity Agreement shall govern all indemnifications from the Borrower to the Issuer with respect to environmental matters affecting the Project. The terms and provisions of the Environmental Indemnity Agreement are incorporated herein by this reference, mutatis mutandis, as if fully set forth herein with respect to such relationship. As such, the balance of the provisions of this Section govern only the relationship between the Borrower and the Bondholder with respect to indemnifications from the Borrower to the Bondholder with regard to environmental matters affecting the Project.

(b) For purposes of this Section 7.8, the term "Hazardous Substance" means and includes any substance, material or waste, including asbestos, petroleum and petroleum products (including crude oil), that is or becomes designated, classified or regulated as "toxic," "hazardous" or a "pollutant," or that is or becomes similarly designated, classified or regulated, under any federal, state or local law, regulation or ordinance, but does not include any such substance that is a customary and ordinary household, cleaning or office product used on the Premises by Borrower or any tenant or agent of Borrower, or customary construction materials used during the course of construction of the Project by the Borrower and its general contractor, provided such use is in accordance with applicable hazardous materials laws.



(c) Before signing this Agreement, the Borrower researched and inquired into the previous uses and owners of the Premises and obtained a Phase I environmental site assessment, a Phase II environmental site assessment, a Phase II environmental site assessment supplement, and other reports with respect to the environmental conditions of the Premises, copies of which have been delivered to the Bondholder. Based on that due diligence, the Borrower represents and warrants to the Bondholder that, except as the Borrower has disclosed to the Bondholder in writing and as described in the Phase I environmental site assessment, to the best of the Borrower's knowledge, (i) no Hazardous Substance has been disposed of, or released to or from, or otherwise now exists in, on, under or around, the Premises, and (ii) no aboveground or underground storage tanks are now or have ever been located on or under the Premises.

(d) The Borrower has complied, and will comply and cause all tenants and any other persons who may come upon the Premises to comply in all material respects with all federal, state and local laws, regulations and ordinances governing or applicable to Hazardous Substances ("Environmental Laws"), including those requiring disclosures to prospective and actual buyers or tenants of all or any portion of the Premises. The Borrower will not install or allow to be installed any aboveground or underground storage tanks on the Premises. The Borrower must comply with the recommendations of any qualified environmental engineer or other expert engaged by the Borrower with respect to the Premises. The Borrower must promptly notify the Bondholder in writing (i) if it knows, suspects or believes there may be any Hazardous Substance in or around any part of the Premises, any improvements constructed on the Premises, or the soil, groundwater or soil vapor on or under the Premises, or that the Borrower or the Premises may be subject to any threatened or pending investigation by any governmental agency under any law, regulation or ordinance pertaining to any Hazardous Substance, and (ii) of any claim made or threatened by any person, other than a governmental agency, against the Borrower arising out of or resulting from any Hazardous Substance being present or released in, on or around any part of the Premises, any Improvements constructed on the Premises or the soil, groundwater or soil vapor on or under the Premises (any of the matters described in clauses (i) and (ii) above a "Hazardous Substances Claim").

(e) The Bondholder, and its respective officers, employees, directors, agents, parent, subsidiary, affiliates, assignees, and any purchasers of the Premises at any foreclosure sale with respect to the Mortgage (each individually, an "Indemnified Party," and all collectively, the "Indemnified Parties"), have the right at any reasonable time and upon notice to the Borrower to enter and visit the Premises for the purposes of observing the Premises, taking and removing soil or groundwater samples and conducting tests on any part of the Premises. The Indemnified Parties have no duty, however, to visit or observe the Premises or to conduct tests, and no site visit, observation or testing by any Indemnified Party imposes any liability on any Indemnified Party. In no event will any site visit, observation or testing by any Indemnified Party be a representation that Hazardous Substances are or are not present in, on or under the Premises, or that there has been or will be compliance with any law, regulation or ordinance pertaining to Hazardous Substances or any other applicable governmental law. Neither the Borrower nor any other party is entitled to rely on any site visit, observation or testing by any Indemnified Party. The Borrower waives to the fullest extent permitted by law any such duty of care on the part of the Indemnified Parties or any other party to protect the Borrower or inform the Borrower or any other party of any Hazardous Substances or any other adverse condition affecting the Premises.

Any Indemnified Party will give the Borrower reasonable notice before entering the Premises. The Indemnified Party will make reasonable efforts to avoid interfering with the Borrower's use of the Premises in exercising any rights provided in this Section. The Borrower must pay all reasonable costs and expenses incurred by an Indemnified Party in connection with any inspection or testing conducted in accordance with this subsection if the same are performed as a result of any violation or potential violation, as determined in Bondholder's reasonable discretion, of Environmental Laws. The results of all investigations conducted and/or reports prepared by or for any Indemnified Party must at all times remain the property of the Indemnified Party, and under no circumstances will any Indemnified Party have any obligation whatsoever to disclose or otherwise make available to the Borrower or any other party the results or any other information obtained by any of them in connection with the investigations and reports. Notwithstanding the foregoing, the Indemnified Parties hereby reserve the right, and the Borrower hereby expressly authorizes any Indemnified Party, to make available to any party (including any governmental agency or authority and any prospective bidder at any foreclosure sale of the Premises with respect to the Mortgage) any and all reports, whether prepared by any Indemnified Party or prepared by the Borrower and provided to any Indemnified Party (collectively, "Environmental Reports") that any Indemnified Party may have with respect to the Premises. The Borrower consents to the Indemnified Parties' notifying any party (either as part of a notice of sale or otherwise) of the availability of any or all of the Environmental Reports and the information contained therein. The Borrower acknowledges that the Indemnified Parties cannot control or otherwise assure the truthfulness or accuracy of the Environmental Reports and that the release of the Environmental Reports, or any information contained therein, to prospective bidders at any foreclosure sale of the Premises with respect to the Mortgage may have a material and adverse effect upon the amount that a party may bid at such sale. The Borrower agrees that the Indemnified Parties have no liability whatsoever as a result of delivering any or all of the Environmental Reports or any information contained therein to any third party, and the Borrower hereby releases and forever discharges the Indemnified Parties from any and all claims, damages, or causes of action, arising out of, connected with or incidental to the Environmental Reports or the delivery thereof.

(f) The Borrower must promptly undertake any and all remedial work ("Remedial Work") in response to Hazardous Substances Claims to the extent required by governmental agency or agencies involved or as recommended by prudent business practices, if such standard requires a higher degree of remediation, and in all events to minimize any impairment to the Bondholder's security under the Borrower Collateral Documents. All Remedial Work must be conducted (i) in a diligent and timely fashion by licensed contractors acting under the supervision of a consulting environmental engineer, (ii) pursuant to a detailed written plan for the Remedial Work approved by all public or private agencies or persons with a legal or contractual right to such approval, (iii) with insurance coverage pertaining to liabilities arising out of the Remedial Work as is then customarily maintained with respect to such activities, and (iv) only following receipt of any required permits, licenses or approvals. The selection of the Remedial Work contractors and consulting environmental engineer, the contracts entered into with such parties, any disclosures to or agreements with any public or private agencies or parties relating to Remedial Work and the written plan for the Remedial Work (and any changes thereto) at the Bondholder's option, is subject to the Bondholder's prior written approval, which may not be unreasonably withheld or delayed.

(g) The obligations and rights of the parties under this Section 7.8 are secured by the Mortgage until the first to occur of full, final and indefeasible repayment of the Liabilities or the transfer of title to all or any part of the Premises at a foreclosure sale under the Mortgage or by deed in lieu of such foreclosure (any of the foregoing transfers being referred to as a "Foreclosure Transfer"). The parties' obligations and rights under this Section 7.8 continue in full force and effect after the full and final payment of the Liabilities or a Foreclosure Transfer, as the case may be, but (i) in the case of a full and final payment of the Liabilities, the Borrower's obligations under this Section 7.8 are thereafter limited to the indemnification obligations of subsections (h) and (i) below as to Indemnified Costs (as defined below) arising out of or as a result of events prior to the full and final payment of the Liabilities, and (ii) in the case of a Foreclosure Transfer, the obligations do not include the obligation to reimburse any Indemnified Party for diminution in value of the Premises resulting from the presence of Hazardous Substances on the Premises before the date of the Foreclosure Transfer if, and to the extent that, the Indemnified Party recovers on a deficiency judgment including compensation for such diminution in value; provided, however, that nothing in this sentence impairs or limits an Indemnified Party's right to obtain a judgment in accordance with applicable law for any deficiency in recovery of all obligations that are secured by the Mortgage, subject to the provisions of Section 14.1 hereof. As used in this Section 7.8, the term "Indemnified Costs" means all actual or threatened liabilities, claims, actions, causes of action, judgments, orders, damages (including foreseeable and unforeseeable consequential damages), costs, expenses, fines, penalties and losses incurred in connection with Hazardous Substances on the Property (including sums paid in settlement of claims and all consultant, expert and reasonable legal fees and expenses of the Bondholder's counsel), including those incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work (whether of the Premises or any other property), or any resulting damages, harm or injuries to the person or property of any third parties or to any natural resources.

(h) Unless due to the gross negligence or intentional misconduct of the Indemnified Parties, the Borrower shall indemnify, defend and hold the Indemnified Parties harmless for, from and against any and all Indemnified Costs directly or indirectly arising out of or resulting from any Hazardous Substance being present or released in, on or around any part of the Premises, or in the soil, groundwater or soil vapor on or under the Premises, including: (i) any claim for such Indemnified Costs asserted against any Indemnified Party by any federal, state or local governmental agency, including the United States Environmental Protection Agency and the Illinois Environmental Protection Agency, and including any claim that any Indemnified Party is liable for any such Indemnified Costs as an "owner" or "operator" of the Premises under any law relating to Hazardous Substances; (ii) any claim for such Indemnified Costs asserted against any Indemnified Party by any person other than a governmental agency, including (1) any person who may purchase or lease all or any portion of the Premises from the Borrower, from any Indemnified Party or from any other purchaser or lessee, (2) any person who may at any time have any interest in all or any portion of the Premises, (3) any person who may at any time be responsible for any clean-up costs or other Indemnified Costs relating to the Premises, and (4) any person claiming to have been injured in any way as a result of exposure to any Hazardous Substance; (iii) any Indemnified Costs incurred by any Indemnified Party in the exercise by the Indemnified Party of its rights and remedies under this Section 7.8; and (iv) any Indemnified Costs incurred by any Indemnified Party as a result of currently existing conditions in, on or around the Premises, whether known or unknown by the Borrower or the Indemnified

Parties at the time this Agreement is executed, or attributable to the acts or omissions of the Borrower, any of the Borrower's tenants, or any other person in, on or around the Premises with the consent or under the direction of the Borrower.

(i) Unless due to the gross negligence or intentional misconduct of the Indemnified Parties, upon demand by any Indemnified Party, the Borrower must defend any investigation, action or proceeding involving any Indemnified Costs that is brought or commenced against any Indemnified Party, whether alone or together with the Borrower or any other person, all at the Borrower's own cost and by counsel approved by the Indemnified Party. In the alternative, any Indemnified Party may elect to conduct its own defense at the Borrower's expense.

(j) In addition to any other rights or remedies the Bondholder may have under this Agreement, at law or in equity, upon the occurrence of an Event of Default under this Agreement, the Bondholder may do or cause to be done whatever is necessary to cause the Premises to comply with any and all laws, regulations and ordinances governing or applicable to Hazardous Substances, and any other applicable law, rule, regulation, order or agreement, and the cost thereof will become immediately due and payable upon demand by the Bondholder, and if not paid when due will accrue interest at the default rate set forth in the Bonds, until paid. The Borrower hereby acknowledges and agrees that any amounts realized by the Bondholder by reason of the following may be applied to pay the Liabilities prior to being applied to pay the Borrower's obligations to reimburse the Bondholder for costs and expenses, including those incurred by the Bondholder in enforcing its rights and remedies under the provisions of this Section 7.8: (i) any payments made pursuant to the Bonds or any of the Borrower Collateral Documents (other than payments made to the Bondholder for reimbursement of costs and expenses or for enforcement of its rights and remedies, under the provisions of this Section 7.8); (ii) any foreclosure of the Mortgage or the other documents evidencing or securing the Liabilities (including any amounts realized by reason of any credit bid in connection with any such foreclosure); (iii) any conveyance in lieu of foreclosure; (iv) any other realization upon any security for the Liabilities; (v) any recoveries against the Borrower personally (except for recoveries against the Borrower for reimbursement of costs and expenses or enforcement of the Bondholder's rights and remedies under this Section 7.8); and (vi) any recoveries against any person or entity other than the Borrower (including any guarantor) to the maximum extent permitted by applicable law.

(k) To the extent any provision of this Section 7.8 conflicts with or provides lesser protection to the Bondholder than that provided by the Environmental Indemnity Agreement, the provisions of the Environmental Indemnity Agreement shall control.

Section 7.9. Insurance. The Borrower shall at all times maintain insurance with respect to the Project as is set forth in the Mortgage.

Section 7.10. Project Budget. All Costs of the Project shall be identified by line item in the Development Cost Budget approved in writing by the Bondholder, the Bondholder's purchase of the Bond to constitute evidence that the Bondholder has approved the initial Development Cost Budget. The initial Development Cost Budget shall have a hard cost contingency line item in the minimum amount of five percent (5%) of the hard cost amount

(exclusive of profit and overhead) of the approved contract for construction of the Project between the Borrower and a general contractor approved by the Bondholder. The initial Development Cost Budget, once so approved by the Bondholder shall not be modified or amended without the prior written approval of the Bondholder; provided, that individual line item changes in an amount not individually in excess of \$50,000 and in the aggregate not in excess of \$200,000 may be made without Bondholder approval, provided that the entire budget is "in balance" as provided in Section 7.12.

Section 7.11. Completion of Construction.

(a) The Borrower shall commence construction of the Project within thirty (30) days following the Closing Date, and Complete all improvements comprising the Project [within three months of the completion date identified for completion in the contract with the General Contractor].

(b) For purposes of this Section, the Project shall be deemed "Complete" when (a) the Project has been substantially completed in accordance with the approved Plans and Specifications therefor and all applicable laws and ordinances, as evidenced by a certification of the Borrower's design architect; (b) final lien waivers from the Borrower's General Contractor and any other contractors providing materials and labor in connection with the Project have been obtained, or the Borrower shall have deposited with the Bondholder such surety bond, cash or other security satisfactory to the Bondholder in its sole discretion to secure the payment of any unpaid claims; (c) a final certificate of occupancy (or its functional equivalent) has been issued by the City of Chicago Department of Buildings with respect to the Project; and (d) all buildings in the Project have been "placed in service" pursuant to the requirements of Section 42 of the Internal Revenue Code.

Section 7.12. Balancing. The Borrower shall maintain the sources and uses of funds for the Project "in balance." The Project is "in balance" whenever the amount of the undisbursed funds (the "Undisbursed Funds") considering all financing sources that are, in the Bondholder's reasonable judgment, available for disbursement to pay Costs of the Project are sufficient, in the Bondholder's reasonable judgment, to pay all budgeted and unpaid Costs of the Project through completion of the Project, except for developer fees. The Project is "out of balance" if and when the Bondholder in its reasonable judgment determines that the Undisbursed Funds for the Project are insufficient to pay for all Costs of the Project.

Section 7.13. Change Orders. The Borrower must obtain the Bondholder's prior written approval of any change in any work or materials for the Project (whether positive or negative) exceeding \$[50,000 in amount]. Also, the Borrower must obtain the Bondholder's prior written approval for any change in any work or materials if the aggregate amount of all changes (whether positive or negative) with respect to the Project will then exceed \$200,000.

Section 7.14. Covenant Against Liens. The Borrower must pay or otherwise discharge promptly all claims and liens for labor done and materials and services furnished in connection with the construction of the Project. The Borrower has the right to contest in good faith any claim or lien, provided that it does so diligently and without prejudice to the Bondholder or delay in completing the Project by the Completion Date. Promptly upon the Bondholder's request, the

Borrower must provide a bond, cash deposit or other security satisfactory to the Bondholder in the exercise of its reasonable judgment.

Section 7.15. Financial Statements. Within 120 days after the end of its fiscal year, the Borrower must deliver annual audited balance sheets and income statements to the Bondholder for itself and, until construction of the Project is Complete, of the Guarantors, together with a statement showing all changes in the financial condition of any such parties or of the Project occurring during the preceding fiscal year. Also, the Borrower must deliver promptly to the Bondholder (a) monthly certified rent rolls for the Project commencing the first month after the date that construction of the Project is Complete through the Conversion Date, and (b) from and after the Conversion Date, quarterly balance sheets, operating statements and certified rent rolls for the Project within thirty (30) days after each fiscal quarter.

Section 7.16. Notices. The Borrower must notify the Bondholder promptly in writing of: (a) any litigation affecting the Borrower, the Managing Member, the Guarantors or the Developer, the defense of which has not been tendered to and accepted by the Borrower's insurance carrier; (b) any written or oral communication the Borrower receives from any governmental, judicial or legal authority giving notice of any claim or assertion that the Premises or the Project fails in any material respect to comply with any of any applicable law, ordinance, rule, regulation or other governmental requirements; (c) any material adverse change in the physical condition of the Project (including any damage suffered as a result of earthquakes or floods); (d) any material adverse change in financial condition or operations of the Borrower, the Managing Member or the Developer; (e) any change in the ownership or control of the Borrower or any of its members; or (f) any default by the Borrower's General Contractor or any subcontractor or material supplier for the Project.

Section 7.17. Zoning Amendments, Subdivisions, etc. The Borrower will not, without the prior written consent of the Bondholder, suffer or cause any change in zoning relating to the Premises or permit any vacation of any existing public street or alley serving the Premises or dedicate any portion of the Premises or convert any portion of the Project to condominium or cooperative ownership.

Section 7.18. Signage. Until the Project is Complete, the Borrower shall permit the Bondholder to display signage in cooperation with other Project funders in a highly visible location on the Project site.

Section 7.19. Compliance with Conditions to Capital Contributions. Borrower shall, prior to the Maturity Date, complete construction of the Project and conduct operations so as to achieve for a period of not less than 3 consecutive months an occupancy rate of not less than [90%] with a debt service coverage ratio of [1.15 to 1].

## **ARTICLE VIII**

### **COVENANTS OF THE ISSUER**

Until the payment in full of the Bonds and the Borrower Note, and until all Liabilities are indefeasibly satisfied in full, the Issuer covenants and agrees that each of the covenants, undertakings and agreements set forth in this Section shall be complied with.

Section 8.1. Payment of Principal and Interest. The Issuer shall promptly pay the principal of and interest on the Bonds at the place, on the dates and in the manner provided in the Bond Issuance Agreement and the Bonds according to the true intent and meaning thereof; provided, however, that the Bonds shall be a special, limited obligation of the Issuer payable as to principal and interest solely from the Revenues as provided in Section 2.08 of the Bond Issuance Agreement.

Section 8.2. Borrower Note. The Issuer shall not thwart the efforts of the Borrower or the Bondholder to defend (and, upon the written request of the Bondholder, shall assist in such defense if such assistance is necessary to adequately defend the rights of the Bondholder thereunder at no cost to the Issuer) the title to the Borrower Note against all claims and demands of all Persons whomsoever, and hereby authorizes the Borrower and the Bondholder to defend, on behalf of the Issuer, all such claims and demands.

Section 8.3. Further Assurances. The Issuer shall execute, acknowledge and deliver each and every further act, deed, conveyance, transfer and assurance reasonably necessary or proper for the better assuring of the pledge and assignment to the Bondholder of this Loan Agreement, the Borrower Note and the Security for the Bonds. The Borrower agrees to pay all expenses incurred by the Issuer in connection with the performance by the Issuer of its agreements under this Section 8.3.

Section 8.4. Arbitrage. The Issuer shall not take any action within its control, or fail to take any action of which it has knowledge, with respect to the investment of the proceeds of the Bonds, including, without limitation, moneys on deposit in any Fund or Account in connection with the Bonds, whether or not such moneys were derived from the proceeds of the sale of the Bonds or from any other source, or with respect to the payments derived from the Borrower Note, which may result in constituting the Bonds "arbitrage bonds" within the meaning of Section 148 of the Code and the Regulations. The Issuer further covenants to create a rebate fund upon direction by the Borrower to facilitate the payment of any rebatable arbitrage that may arise.

Section 8.5. Recordation and Other Instruments. As provided in Section 6.04 of the Bond Issuance Agreement, in order to perfect the security interest of the Bondholder in the Security for the Bonds, the Issuer, to the extent permitted by law, will execute such assignments, security agreements or financing statements, naming the Bondholder as assignee and pledgee of the Security for the Bonds assigned and pledged under the Bond Issuance Agreement for the payment of the principal of and interest on the Bonds and as otherwise provided herein, as the Bondholder shall reasonably request in writing, and the Borrower will cause the same to be duly filed and recorded, as the case may be, in the appropriate state and county offices as required by the provisions of the Uniform Commercial Code or other similar law as adopted in Illinois, as from time to time amended. The Issuer, to the extent permitted by law, at the expense of the Borrower, shall execute and cause to be executed any and all further instruments as shall be reasonably requested in writing by the Bondholder for such protection and perfection of the

interests of the Bondholder, and the Issuer or its agent shall, upon written direction from the Bondholder, file and refile or cause to be filed and refiled such instruments as shall be necessary to preserve and perfect the lien of the Bond Issuance Agreement upon the Security for the Bonds until the principal of and interest on the Bonds issued hereunder shall have been paid or provision for payment shall be made as herein provided.

Section 8.6. Assignment of Issuer's Rights. As security for the payment of the Bonds, the Issuer shall assign and pledge this Loan Agreement (except for Issuer Reserved Rights), the Borrower Note and the Security for the Bonds to the Bondholder. The Bondholder and the Borrower hereby agree to such assignment, and the Borrower agrees that it shall make payments directly to the Bondholder as herein provided, without any defense or rights of set-off whatsoever.

## ARTICLE IX

### CONSTRUCTION OF PROJECT; ISSUANCE OF BONDS

Section 9.1. Agreement to Complete Project; Application of Bond Proceeds. The Borrower shall apply the proceeds of the Bonds to the acquisition, construction and renovation of the Project as described in Exhibit B attached hereto. The Borrower acknowledges and agrees that the disbursement of proceeds of the Bonds shall be made in the order and pursuant to the terms of the Construction Escrow Agreement. The Borrower agrees that the acquisition, construction and renovation of the Project will at all times proceed with due diligence to completion.

Section 9.2. Agreement to Issue the Bonds. (a) In order to provide funds to make the Loan to the Borrower to pay a portion of the Costs of the Project and related expenses, but subject to the terms and conditions contained in the Bond Issuance Agreement, the Issuer agrees that it will issue, sell and cause to be delivered to the Bondholder the Bonds in the principal amount of up to \$[Principal], bearing interest and maturing as set forth in the Bond Issuance Agreement. The Issuer will deposit, or cause to be deposited, the proceeds of the Bonds advanced by the Bondholder pursuant to the Bond Issuance Agreement with the Fiscal Agent for deposit in the Construction Fund in accordance with Article IV of the Bond Issuance Agreement (except for that portion of each advance of Bond proceeds, if any, deposited in the Capitalized Interest Account, as provided therein).

(b) Notwithstanding any other provision herein to the contrary, the maximum principal amount of Bond proceeds which are advanced (and thus the maximum principal amount of Loan proceeds which are disbursed) shall not exceed the sum of (i) eighty-five percent (85%) of the equity contributions scheduled to be contributed by the Investor Member of the Borrower under the Operating Agreement, (ii) 80% of the appraised value of the Project as completed (as set forth in the appraisal prepared for the Bondholder prior to the Closing Date), and (iii) ninety percent (90%) of the amount on deposit from time to time in the Cash Collateral Fund.

Section 9.3. Disbursements from the Construction Fund. Upon receipt by the Fiscal Agent of the proceeds from the sale of the Bonds as advanced by the Bondholder, the Fiscal



Agent will, subject to the prior written approval of the Bondholder, disburse moneys in the Construction Fund to or on behalf of the Borrower for the following purposes, to the extent included in the related Development Cost Budget or otherwise approved by Bondholder:

(a) Payment of the initial or acceptance fee of the Fiscal Agent (if any), the fees and expenses for recording or filing any required documents or instruments by which the revenues and receipts to be derived by the Issuer pursuant to this Loan Agreement, the related Borrower Note and the Security for the Bonds are assigned and pledged as security for the related Bonds, and the fees and expenses for recording or filing any financing statements and any other documents or instruments that either the Borrower or counsel to the Issuer may deem desirable to file or record.

(b) Payment to the Borrower of such amounts as shall be necessary to reimburse the Borrower (or for the Borrower to reimburse the Developer, if applicable) in full for all advances and payments made or costs that have been or will be incurred prior to or after the delivery of the Bonds for expenditures in connection with the preparation of Plans and Specifications (including any preliminary study or planning of the Project or any aspect thereof), the acquisition, construction and renovation of the Project and the acquisition and installation necessary to provide utility services and all real or personal properties deemed necessary in connection with the Project.

(c) Payment or reimbursement to the Borrower of all financial, legal and accounting fees and expenses (including all expenses incurred in connection with the placement of the Bonds) incurred in connection with the authorization, sale and issuance of the Bonds, the preparation of the Bond Issuance Agreement, this Loan Agreement, the Security for the Bonds, the Borrower Documents, the Issuer Documents and all other documents in connection therewith.

(d) Payment or reimbursement for labor, services, materials and supplies used or furnished on site improvements and in the acquisition, construction and renovation of the Project as provided in **Exhibit B** hereto, payment for the cost of the acquisition and installation of utility services or other facilities, and the acquisition and installation of all real and personal property deemed necessary in connection with the Project and payment for the miscellaneous capitalized expenditures incidental to any of the foregoing items.

(e) Payment or reimbursement of the fees if any, for architectural, engineering, legal, investment banking and supervisory services with respect to the Project, and of any costs incurred to obtain the General Contractor's payment and performance bond, and of any fees payable to the Issuer or the Bondholder, or the Issuer's or the Bondholder's counsel, or to the Investor Member in connection with the financing of the Project.

(f) To the extent not paid pursuant to a contract for acquisition, construction, or renovation with respect to any part of the Project, payment of the premiums on all insurance required to be taken out and maintained with respect to the Project during the related Initial Period.

(g) Payment of the taxes, assessments and other charges, if any, that may become payable during the related Initial Period with respect to the Project, or reimbursement thereof if paid by the Borrower.

(h) Payment of expenses incurred in seeking to enforce any remedy against any supplier, conveyor, grantor, contractor or subcontractor in respect of any default under a contract relating to the Project.

Each of the payments referred to in this Section 9.3, other than those payments referred to in subsection (h) above, shall be made upon receipt by the Fiscal Agent of the documents and showings specified in Section 9.5 hereof.

Notwithstanding any other provision hereof or of the Bond Issuance Agreement, in the event the moneys in the Construction Fund and the Construction Escrow, together with the balance of monies that are available through the Additional Funding Sources, for payment of the Costs of the Project should not, in the Bondholder's reasonable judgment, be sufficient to pay the costs thereof in full, the Borrower agrees within ten (10) days after receipt of written notice thereof from the Bondholder to pay directly, or to deposit in the Construction Fund (or in the Construction Escrow) moneys sufficient to pay, the costs of completing the Project as may be in excess of the moneys available therefor in the Construction Fund and the Construction Escrow and from the Additional Funding Sources. NEITHER THE ISSUER NOR THE BONDHOLDER MAKES ANY WARRANTY, EITHER EXPRESS OR IMPLIED, THAT THE MONEYS THAT WILL BE PAID INTO THE CONSTRUCTION FUND, AND THAT, UNDER THE PROVISIONS OF THIS LOAN AGREEMENT, WILL BE AVAILABLE FOR PAYMENT OF THE COSTS OF THE PROJECT RELATING TO THE PROJECT, WILL BE SUFFICIENT TO PAY ALL THE COSTS THAT WILL BE INCURRED IN THAT CONNECTION. The Borrower agrees that if it should pay or should deposit moneys in the Construction Fund or Construction Escrow for payment of any portion of the Costs of the Project pursuant to the provisions of this Section 9.3, it shall not be entitled to any reimbursement therefor from the Issuer, the Fiscal Agent or the Bondholder, nor shall it be entitled to any diminution of the amounts payable under the Borrower Note or hereunder. The Borrower hereby pledges, sets over and transfers to the Issuer and hereby grants to the Issuer a security interest and right of setoff in all rights to the proceeds in the escrow account, if any, created pursuant to Section 9.4 of this Loan Agreement.

All proceeds of the Bonds remaining in the Construction Fund or in the Construction Escrow after the Project is Complete, and after payment or provision for payment of all other items provided for in subsections (a) to (h), inclusive, of this Section 9.3, shall be used in accordance with Section 9.4 hereof.

Section 9.4. Completion of the Project. (a) Any proceeds of the Bonds (including investment proceeds) remaining in the Construction Fund or in the Construction Escrow on the date the Project is Completed and not set aside for the payment of Costs of the Project not then due and payable shall on such date be transferred to, if applicable, and placed by the Fiscal Agent in a separate escrow account and used to pay the outstanding principal balance of the Borrower Note and the corresponding redemption of the Bonds at the earliest possible redemption date, provided that, until used for such purpose, moneys on deposit in such escrow

account may be invested as provided in Section 9.6 hereof, but may not be invested to produce a yield on such moneys (computed from the date the Project was completed and taking into account any investment of moneys during the period from the date the Project was Completed until such moneys were deposited in such escrow account) greater than the yield on the Bonds, all as such terms are used in and determined in accordance with Section 148(a) of the Code and the Regulations. On or after the Conversion Date, if a payment in excess of \$10,000 is made by the Fiscal Agent in accordance with this Section 9.4, the Bondholder shall recalculate the amortizing payments under the Loan based on the reduced outstanding principal, and the monthly payments of principal plus interest owed by Borrower through the term of the Loan shall be reduced accordingly.

(b) No Person not a party hereto shall have any rights to the money or other funds or assets from time to time in the Construction Fund or the escrow accounts referred to in this Section 9.4 or Section 4.02 of the Bond Issuance Agreement.

Section 9.5. Disbursements. Except for Bond proceeds used to pay interest on the Bonds (for which no disbursement request shall be required), Bond proceeds shall be disbursed by the Bondholder to the Fiscal Agent for deposit in the Construction Fund upon written request, substantially in the form of Exhibit C hereto, signed by the Borrower and the Bondholder. Except to the extent that the disbursement pertains to costs of issuance of the Bonds, amounts disbursed from the Construction Fund shall be disbursed to the escrow agent under the Construction Escrow Agreement for further disbursement as provided therein. To the extent the disbursement pertains to the CHA Collateral Portion of the Bonds, the consent of the CHA to such disbursement shall be required as provided in the CHA Loan Agreement and the Construction Escrow Agreement. The Bondholder's disbursement of funds to the Fiscal Agent for deposit in the Construction Fund, shall be subject to the satisfaction of the conditions set forth in Articles X and XI hereof.

Immediately following a disbursement, the Borrower covenants that written notice of the amount and date of the disbursement shall be provided to the Issuer. Such notice may be provided by an email sent to such address as the Issuer may have designated to be used for such purposes in a prior notice to the Borrower.

Section 9.6. Investment of Moneys. (a) Any moneys held as part of the Construction Fund, or the escrow accounts specified in Section 9.4 hereof, or as part of any other Fund or Account in the possession or control of the Fiscal Agent, while acting as such under the Bond Issuance Agreement, and any other moneys subject to the requirements of Section 148(a) of the Code, including any moneys that at any time shall constitute "gross proceeds" of the Bonds within the meaning of the Regulations, shall be invested, to the extent permitted by law, only in Eligible Investments.

(b) All such investments of moneys held by the Fiscal Agent as a part of the Construction Fund or the escrow accounts specified in Section 9.4 hereof or any other Fund or Account shall be made by the Fiscal Agent at the direction of the Borrower (which direction shall be either in writing or given orally and confirmed in writing). The approval of the Issuer shall not be required prior to the making of any such investment, but the Issuer reserves the right (which right is subject to assignment as set forth in Section 4.2 hereof) to disapprove in its

reasonable discretion any investments or proposed investments of which it has notice. If no direction is given by the Borrower, the Issuer may direct (which right is subject to assignment as set forth in Section 4.2 hereof) the Fiscal Agent to invest in any of the Eligible Investments, and, if no direction is given, the Fiscal Agent or any affiliate thereof shall invest in no-load, open-end money market mutual funds (including those of the Fiscal Agent and its affiliates) registered under the Investment Company Act of 1940, provided that the portfolios of such funds are limited to Government Obligations and each such fund has been assigned a rating by each Rating Agency of "AAA" or "Aaa," as applicable.

(c) The Fiscal Agent may make any and all such investments through its own investment department or that of an affiliate. The investments so purchased shall be held by the Fiscal Agent and shall be deemed at all times a part of the Fund, Account or Subaccount for which the investment was made, and the interest accruing thereon and any profit realized therefrom shall be credited to such Fund, Account or Subaccount, as the case may be, and any net losses resulting from such investment shall be charged to such Fund, Account or Subaccount, as the case may be. The Fiscal Agent shall be entitled to rely conclusively on all written investment instructions provided by the Borrower pursuant to this Section 9.6, and the Fiscal Agent shall have no responsibility or liability for any depreciation in the value of any investment or for any loss, direct or indirect, resulting from any investment made in accordance with such direction and written confirmation from the Borrower specified in this Section 9.6.

(d) Notwithstanding the foregoing, moneys advanced by the Bondholder and deposited in the Construction Fund shall be immediately disbursed to the title company under the Construction Escrow Agreement for deposit in the Construction Escrow thereunder, and shall not be invested by the Fiscal Agent.

Section 9.7. Arbitrage Covenant. The Borrower covenants with the Bondholder and the Issuer that, as long as any of the payment obligations hereunder remain unpaid, moneys on deposit in any Fund, Account or Subaccount in connection with the Bonds, whether or not such moneys were derived from the proceeds of the sale of the Bonds or from any other source, will not be used or invested at the Borrower's direction in a manner that will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code and the Regulations.

The parties hereto acknowledge that, pursuant to Section 4.02(e) of the Bond Issuance Agreement, the Bondholder may make an advance of Bond proceeds directly into the Construction Escrow under the Construction Escrow Agreement; if it does so all provisions and conditions to disbursement of, and in this Agreement relating to, the Construction Fund shall apply as if the advance were deposited into the Construction Fund.

## **ARTICLE X**

### **CONDITIONS TO APPROVAL OF INITIAL DISBURSEMENTS**

All disbursements of Bond proceeds made by the Bondholder to the Fiscal Agent for deposit in the Construction Fund are subject to the prior written approval of the Bondholder as set forth in Articles X (with respect to initial disbursements) and XI (with respect to all disbursements) hereof.

All references herein to disbursements of the Loan shall also mean advances of Bond proceeds, and vice versa; i.e., an advance of Bond proceeds is a disbursement of the Loan made hereunder.

Bond proceeds will be disbursed by the Bondholder to the Fiscal Agent for deposit in the Construction Fund to pay Costs of the Project upon fulfillment of the conditions set forth in Section 2.11 of the Bond Issuance Agreement, and subject to the disbursement requirements of this Article and Article XI hereof.

The Bondholder's approval of the initial disbursement of proceeds of the Loan is subject to the satisfaction of all of the following conditions and delivery of the following documents in form and content acceptable to the Bondholder:

Section 10.1. Documents. All of the documents required to be delivered to the Bondholder or the Fiscal Agent pursuant to this Agreement and the Bond Issuance Agreement shall have been duly authorized, executed and delivered to the Bondholder and the Fiscal Agent, respectively, including, without limitation, the Borrower Note, the Bonds, the Borrower Collateral Documents and such other agreements or documents as may be required by the Bondholder in its discretion, including, without limitation, such intercreditor, subordination or other agreements between and among the Bondholder and third parties making loans to the Borrower secured by mortgages of the Borrower's estate in the related Premises.

Section 10.2. Title Policy. An ALTA standard form or equivalent construction loan policy of title insurance (the "Title Policy") issued by [Greater Illinois Title Company] (the "Title Company"), insuring the lien of the Mortgage with respect to the Premises to be a first priority lien against the Borrower's estate in the Premises, subject only to those exceptions as are set forth in the Title Policy and any other exceptions as the Bondholder shall consent to in writing ("Permitted Exceptions"), containing extended coverage over the standard exceptions, including, without limitation, the exceptions for mechanics' lien claims and for matters of survey, and containing a lender's comprehensive endorsement, modified 3.1 zoning endorsement (with parking), mezzanine financing endorsement, location endorsement, survey endorsement, usury endorsement, access, environmental lien endorsement, pending disbursement endorsement and such other special endorsements as the Bondholder may reasonably require, together with copies of recorded documents affecting title to the related Premises.

Section 10.3. Survey. A current survey of the Premises prepared by a surveyor licensed in the State of Illinois in accordance with the current minimum detail requirements of the American Land Title Association and showing the boundaries of the Premises, the location of all improvements thereon, the area of the Premises in square feet, set-back lines, encroachments, easements, rights of way and any other matters of interest to the Bondholder. The survey shall be in such form as is acceptable to the Bondholder and the Title Company, be certified to the Bondholder and the Title Company, and contain a legal description of the Premises. The survey shall also certify that the Premises are situated in an area designated Zone C ("area of minimal flooding") according to the applicable Federal Emergency Management Agency Flood Insurance Rate Maps. Upon completion of the foundation work at the Premises, Borrower shall provide an updated survey showing the location of all foundations.

Section 10.4. Documents of Organization/Authority. A true, correct and complete copy of the fully executed Operating Agreements (including all amendments) of the Borrower and the Managing Member, and the organizational documents of the Guarantors, together with such additional documentation as the Bondholder deems necessary to evidence the due organization, good standing and authority of the Borrower, the Managing Member and the Guarantors, the form and content of which shall be satisfactory to the Bondholder in its discretion.

Section 10.5. Opinions of Counsel. Opinions of Bond Counsel, Issuer's counsel and Borrower's counsel, addressing such matters as the Bondholder may request.

Section 10.6. Bondholder's Fees. All fees and expenses of the Bondholder and the Fiscal Agent (if any) in connection with the purchase of the Bonds and the assignment of this Agreement and the Borrower Note shall have been paid.

Section 10.7. Searches. Uniform Commercial Code, judgment and federal tax lien searches of the filing offices of the Illinois Secretary of State and Cook County showing all financing statements, tax liens or judgments entered or filed against Borrower, the Managing Member, the Guarantors or the Premises, and dated no later than thirty (30) days prior to the date of issuance of the Bonds.

Section 10.8. Development Cost Budget. The Development Cost Budget setting forth all costs associated with the acquisition of the Premises, the completion of the Project and the Project construction schedule shall be approved by the Bondholder in writing, as and to the extent provided in Section 7.10 hereof. Once approved by the Bondholder, any subsequent amendments to the approved Development Cost Budget shall require the further prior written approval of the Bondholder, as and to the extent provided in Section 7.10 hereof.

Section 10.9. Architect's Contract. A copy of the fully executed contract with the Borrower's architect for the Project, in form and content acceptable to the Bondholder, and the collateral assignment of the architect's contract to the Bondholder with such assignment acknowledged and consented to by the architect. In addition, Borrower shall deliver a certification of the Borrower's architect that (a) the Plans and Specifications comply with all applicable laws and ordinances; (b) that the Plans and Specifications are complete in all respects and contain all details requisite for construction of the Project, which, when built in accordance therewith, shall be ready for use and occupancy for its intended purpose in compliance with all applicable laws; and (c) that the Plans and Specifications were prepared in a manner consistent with accepted architectural practice.

Section 10.10. Plans and Specifications. Plans and Specifications, as approved by the Bondholder, and with evidence of appropriate governmental approvals thereof.

Section 10.11. Operating Documents. Certified copies of all permits, licenses, consents, authorizations, agreements and governmental approvals necessary for the construction of the Project.

Section 10.12. Construction Contract. A general lump sum, firm price or maximum price construction contract between the Borrower and the General Contractor for construction of the Project in accordance with the Plans and Specifications, and the collateral assignment of the

construction contract to the Bondholder with such assignment acknowledged and consented to by the General Contractor, and the most recent annual audited financial statements and interim unaudited financial statements of the General Contractor.

Section 10.13. Sworn Statements. True, correct and complete copies of the sworn statements of the Borrower and the Borrower's general contractor, executed and acknowledged and in form and content acceptable to the Bondholder.

Section 10.14. Appraisal; Loan to Value. An appraisal of the Project prepared by a licensed appraiser retained by the Bondholder indicating a fair market value of the Project upon stabilization acceptable to the Bondholder in its discretion. The Appraisal shall support an as-built loan-to-value ratio (principal amount of the portion of the Bonds expected to be outstanding immediately following the Conversion Date to the as-is appraised value of the Project) of at least 80%.

Section 10.15. Additional Funding Sources. The Bondholder shall have approved the form and content of all documentation evidencing or securing the loans from the Additional Funding Sources with respect to the Project, and the Bondholder shall receive evidence satisfactory to the Bondholder in its sole and absolute discretion that the conditions to initial disbursement of each of the loans from each of the Additional Funding Sources have been satisfied or waived, and such loans are available for disbursement to fund Costs of the Project with respect to the Project, and that no failure of condition or default, or event or circumstance that with notice or the passage of time, or both, would constitute a default, under any ordinance, resolution or agreement relating to any such loan from an Additional Funding Source exists. The Bondholder and the Additional Funding Sources shall also have agreed in the related Construction Escrow Agreement or otherwise in writing regarding the priority and, to the extent contemporaneously funded, the ratio in which the proceeds of the Loan and the Additional Funding Sources are to be disbursed to finance Costs of the Project (such agreed to priority or ratio being referred to herein as the "Funding Order").

Section 10.16. Environmental Review. The Bondholder shall have received and approved copies of the Phase I environmental site assessment, the Phase II environmental site assessment, the Phase II environmental site assessment supplement, and other reports with respect to the environmental conditions of the Premises. If requested by the Bondholder, the Borrower shall deliver a letter from the environmental consultant indicating that the Bondholder is entitled to rely on the Phase I environmental site assessments to the same extent as if the environmental site assessments were addressed to the Bondholder.

Section 10.17. Bonds. Performance and payment bonds with respect to the Project from the Borrower's general contractor and/or its subcontractors with an aggregate penal sum equal to the full amount of the construction contract written on applicable AIA or HUD forms, or other forms satisfactory to the Bondholder, and underwritten by a surety satisfactory to the Bondholder, naming the Bondholder as co-obligee.

Section 10.18. Equity Requirements. The Bondholder shall have determined, in the exercise of its reasonable discretion, that the aggregate of (a) the principal amount of the Loan, plus (b) the amount of all equity contributed by the Borrower, plus (c) all funds unconditionally

committed by Additional Funding Sources are sufficient to (i) fully Complete the Buildings and related ancillary improvements in the Project and (ii) pay all Costs of the Project identified in the Development Cost Budget, together with other sums due under the Loan Documents. The amount of equity to be deposited prior to the initial disbursement of the Loan on the Closing Date shall be not less than \$\_\_\_\_\_.

Section 10.19. Insurance. Evidence of builder's risk insurance coverage related to the Project satisfactory to the Bondholder.

Section 10.20. Financial Statements. The most recent annual audited financial statements and interim unaudited financial statements of the Guarantors.

Section 10.1. Reserved.

Section 10.3. Market Study. The market study for the Project.

Section 10.4. Reserved.

Section 10.5. Report of Bondholder's Inspecting Architect. The Bondholder shall have received a written report of its inspecting architect subsequent to review by the inspecting architect, including, without limitation, of the Plans and Specifications, the construction contract between the Borrower and general contractor, and the construction schedule for the Project.

Section 10.6. Approval of Members/Material Adverse Financial Change. Each member of the Borrower shall be acceptable to the Bondholder and there shall not have occurred any material adverse change in the financial condition of the Borrower, the General Partner, the Investor Member or the Guarantors.

Section 10.7. No Material Litigation. No material litigation shall be pending or threatened against the Borrower, the Managing Member or the Guarantors.

## ARTICLE XI

### CONDITIONS PRECEDENT TO ALL DISBURSEMENTS

Unless otherwise approved by the Bondholder, advances of Bond proceeds (i.e., disbursements of the Loan) by the Bondholder to the Fiscal Agent for deposit in the Construction Fund in the Construction Fund shall be immediately transferred to the Title Company for deposit into the Construction Escrow established pursuant to the Construction Escrow Agreement. Subject to the introductory language of Article X hereof, the Bondholder's approval of each request of the Borrower for disbursement of Bond proceeds by the Bondholder to the Fiscal Agent for deposit in the Construction Fund shall be subject to satisfaction of the following conditions:

Section 11.1. No Default. No Default or Event of Default, or event which with the giving of notice or lapse of time or both would constitute a Default or Event of Default shall



exist hereunder or under the Bond Issuance Agreement, and the representations and warranties contained in Article VI hereof shall be true and accurate in all material respects as of the date of each disbursement request.

Section 11.2. Draw Request Documents. The Bondholder or, at the Bondholder's direction, the Title Company shall have received and approved the following documents in form acceptable to the Bondholder with each request for a disbursement of a Loan:

(a) a Disbursement Request from the Borrower requesting the disbursement, containing any special funding instructions and requesting any necessary changes in the Plans and Specifications, Development Cost Budget or construction schedule;

(b) a current Borrower's sworn statement completed and certified showing items of the budgeted Costs of the Project, with amounts previously paid and amounts requested for disbursement;

(c) an "Application for Payment and General Contractor's Sworn Statement" form completed and certified and sworn to by the General Contractor and by the Architect and a certification by the Architect that the work for which payment is requested has been done in substantial compliance with the Plans and Specifications;

(d) partial lien waivers or releases of lien from the Borrower's general contractor for the full amount of the requested disbursement, and partial lien waivers or releases of lien from all material suppliers and subcontractors showing, in the case of all draw requests other than the final draw request, full payment through the preceding draw request, and, in the case of the final draw request, for the full amount of the requested disbursement, or copies of such waivers or releases if the originals are delivered to the Title Company in order to obtain the endorsement hereinafter required;

(e) copies of invoices and canceled checks for all reimbursable soft costs;

(f) a Title Company date down and pending disbursement endorsements updating the Bondholder's Title Policy through the date of the immediately preceding disbursement;

(g) copies of invoices and other documents to support the full amount of non-construction cost items contained in the requested disbursement;

(h) Copies of any proposed or executed change orders on standard AIA G701 form, which have not been previously furnished to Issuer and Bondholder;

(i) A report from the Bondholder's inspecting architect that contains an analysis reasonably satisfactory to Bondholder demonstrating the adequacy of the Budget to complete the Project, an analysis as to whether the work is proceeding in accordance with the construction schedule and the Plans and Specifications, and a certification as to amounts of construction costs for the applicable requested funding;

(j) If requested by Bondholder, an updated construction schedule;

(k) Copies of all construction contracts (including subcontracts) which have been executed since the last disbursement, together with any payment and performance bonds obtained or required to be obtained with respect thereto;

(l) All permits then needed in connection with the Project and not previously delivered to Bondholder.

(m) such other documentation as may be reasonably requested by the Bondholder.

Section 11.3. Title Endorsements. The Bondholder shall have received a telephonic commitment from the Title Company to issue an endorsement to the Title Policy extending coverage to include the date and the amount of the requested disbursement, without exception for mechanics' liens or claims of liens, or any other matter not previously approved by the Bondholder in writing, and the Bondholder shall have received and approved a written endorsement to its Title Policy covering the immediately previous disbursement.

Section 11.4. Retainage; General Contractor Overhead and Profit. Each disbursement (other than for materials-only subcontracts) relating to the Project shall be subject to a holdback (the "Retainage") equal to ten percent (10%) of all amounts due the Borrower's general contractor and each subcontractor until the Project is 50% Complete, and five percent (5.0% thereafter), which will be released upon completion of the Project, and upon satisfaction of the conditions for the final disbursement as set forth in Section 11.10 below.

The General Contractor shall be paid its overhead and profit based on a percentage of construction completion.

Section 11.5. Mechanics' Liens and Litigation. There shall be no mechanic's lien claim, litigation or proceeding pending or, to the best of Borrower's knowledge, threatened against or affecting the Premises, unless the same are being contested in accordance with Section 7.14 hereof, or any pending litigation which would in any manner materially adversely affect the Premises or the priority or enforceability of the Bonds, the related Borrower Note, the Mortgage or the other Borrower Collateral Documents or the ability of the Borrower to complete the acquisition, construction, and renovation of the Project.

Section 11.6. No Default under Construction Contract or Agreements with Additional Funding Sources. There shall exist no material default, and there shall exist no event or circumstance that with notice or the passage of time or both would constitute a material default, under (a) the Borrower's construction contract with the general contractor, or (b) any note, agreement or other document executed in connection with any Additional Funding Source.

Section 11.7. No Default under Operating Agreement. There shall exist no material default under the Operating Agreement, and no event or circumstance shall exist that with notice or the passage of time, or both, would give rise to a material default under the Operating Agreement.

Section 11.8. CHA Funds, LIHTC Deposits, and TIF Funds to Pay Bonds. Any deposit of (i) CHA funds, (ii) capital contributions to be made by the Investor Member, and (iii) TIF

Funds, in each case, to the extent the same are to be used to pay principal of and interest on the Bonds in accordance with the terms of the CHA Loan, the Operating Agreement, and the Redevelopment Agreement, respectively, shall have been made as provided in the Funding Schedule attached as Exhibit F hereto.

Section 11.9. Funding Priorities. The related Additional Funding Sources shall have agreed to fund proceeds of their respective grants or loans in accordance with the construction funding priorities established pursuant to Exhibit F hereto.

Section 11.10. Disbursement Immediately Following Initial Disbursement on Closing Date. With respect to the disbursement immediately following the initial advance of Bond proceeds made on the Closing Date, no such disbursement shall be made unless (a) all of the proceeds of the CHA Donation Tax Credit Loan have been deposited into the Construction Escrow, and (b) at least 15% of the aggregate equity contributions to be made by the Investor Member under the Operating Agreement shall have been funded.

Section 11.11. Final Construction Disbursement. The final disbursement and release of Retainage shall be subject to the Bondholder's receipt and approval of the following:

(a) certifications that the acquisition, construction, and renovation of the Project has been completed lien free in substantial compliance with the Plans and Specifications, as well as all applicable laws and ordinances, from the Borrower, the Borrower's architect and the Bondholder's inspecting architect;

(b) final lien waivers and affidavits from the Borrower's general contractor and any other contractors required by the Title Company to issue its final endorsement to the Bondholder's Title Policy insuring over mechanics' and materialmen's liens;

(c) approval of any surety company issuing performance and payment bonds with respect to the Project;

(d) a final and comprehensive endorsement to the Title Policy for the Project with extended coverage;

(e) a certificate of occupancy, or its equivalent, issued by the City of Chicago;

(f) an as-built survey of the Premises and the Project, satisfying the survey standards and requirements set forth in Section 10.3; and

(g) a full size set of as-built plans for the completed Project, or an electronic copy of the as-built plans for the completed Project may be accepted in the Bondholder's sole discretion.

Notwithstanding the foregoing, in no event shall the Bondholder be obligated to approve disbursement requests made subsequent to the Maturity Date.

## ARTICLE XII

### EVENTS OF DEFAULT AND REMEDIES

Section 12.1. Events of Default. Each of the following shall constitute an “Event of Default” hereunder:

(a) default by the Borrower in the due and punctual payment of any amount required to be paid under the Borrower Note, this Loan Agreement, the Bond Issuance Agreement, the Borrower Collateral Documents or the Bonds, whether by way of principal, interest, fees or otherwise; provided that such default shall not constitute an Event of Default hereunder if it is cured within five days after written notice thereof to the Borrower from the Issuer or the Bondholder;

(b) default in the performance or observance of any of the covenants contained in Sections 7.1, 7.6, 7.7 or 7.14.

(c) default in the performance or observance of any other covenant, agreement or condition (and not constituting an Event of Default under any of the other provisions of this Section 12.1), provided that such default shall not constitute an Event of Default hereunder if it is cured within 30 days after written notice thereof to the Borrower from the Issuer or the Bondholder as long as during such period the Borrower is using its best efforts to cure such default and such default can be cured within such period;

(d) any Event of Default (which Event of Default continues beyond all applicable notice and cure periods) under the Bond Issuance Agreement or any of the Borrower Documents shall occur;

(e) any representation or warranty made by the Borrower herein or in any of the Borrower Documents is false or misleading in any material respect when made, or any schedule, certificate, financial statement, report, notice or other writing furnished by the Borrower to the Issuer or the Bondholder is false or misleading in any material respect on the date as of which the facts therein set forth are stated or certified (or deemed stated or certified);

(f) the dissolution or liquidation of the Borrower, the Managing Member, the Developer or, prior to the date that the Project is Complete, either Guarantor (collectively the “Principal Parties,” and individually the “Principal Party,” as the context requires); the filing by any Principal Party of a voluntary petition in bankruptcy, whether under Title 11 of the United States Code or otherwise; the failure by any Principal Party promptly to lift any execution, garnishment or attachment of such consequence as will impair its ability to carry on its obligations hereunder; the entering of an order for relief under Title 11 of the United States Code, as amended from time to time, against such Principal Party unless such order is discharged or denied within 90 days after the filing thereof; if a petition or answer proposing the entry of an order for relief under Title 11 of the United States Code, as amended from time to time, is entered by or against such Principal Party, or if a petition or answer proposing the entry of an order for relief under Title 11 of the United States Code, as amended from time to time, or its reorganization, arrangement or debt readjustment under any present or future federal bankruptcy

act or any similar federal or state law shall be filed by or against such Principal Party in any court, and such petition or answer shall not be discharged or denied within 90 days after the filing thereof; if a Principal Party shall fail generally to pay its debts as they become due; if a custodian (including a receiver, trustee or liquidator of a Principal Party) shall be appointed for or take possession of all or a substantial part of its property, and shall not be discharged within 90 days after such appointment or taking possession; if a Principal Party shall consent to or acquiesce in such appointment or taking of possession, or assignment by such Principal Party for the benefit of its creditors; the entry by a Principal Party into an agreement of composition with its creditors;

(g) default in the payment when due (subject to any applicable grace period), whether by acceleration or otherwise, of any other Indebtedness (in excess of \$100,000) of, or guaranteed by, the Borrower, or default in the performance or observance of any obligation or condition with respect to any such other Indebtedness if the effect of such default is to accelerate the maturity of any such Indebtedness or cause any of such Indebtedness to be prepaid, purchased or redeemed, or to permit the holder or holders thereof, or any trustee or agent for such holder or holders, to cause such Indebtedness to become due and payable, prior to its expressed maturity, or to cause such Indebtedness to be prepaid, purchased or redeemed;

(h) default in the payment when due, or in the performance or observance, of any material obligation of, or condition agreed to by, the Borrower with respect to any material purchase or lease of goods or services (except only to the extent that the Borrower is contesting the existence of any such default in good faith and by appropriate proceedings subject to applicable notice and cure provisions, if any); or

(i) there shall be entered against the Borrower one or more judgments or decrees in excess of \$100,000 in the aggregate at any one time outstanding for the Borrower, excluding those judgments or decrees (i) that shall have been stayed, vacated or bonded, (ii) for and to the extent to which the Borrower is insured and with respect to which the insurer specifically has assumed responsibility in writing, or (iii) for and to the extent to which the Borrower is otherwise indemnified if the terms of such indemnification are satisfactory to the Issuer and the Bondholder; or

(j) a material default or material event of default shall occur under any of the documents evidencing, securing or executed in connection with, any loan made by any Additional Funding Source with respect to the Project, including, without limitation, any promissory notes, mortgages or agreements containing covenants, conditions and restrictions, which default is not cured before the lapse of any applicable cure period; or

(k) a default or event of default shall occur under the Operating Agreement, the effect of which is to materially delay payment of an Investor Member capital contribution, which delay will have a material adverse effect on the Project, which default is not cured before the lapse of any applicable cure period; or

(l) the occurrence of any of the following: (i) a discontinuance in the construction of the Project for a period of sixty (60) days after written notice from Bondholder concerning such delay or discontinuance, (ii) a delay in the construction so that the Project will

;likely not be Complete, in Bondholder's judgment, within the time provided in Section 7.11, and such is not cured by Borrower within thirty (30) days following written notice from Bondholder or (iii) Construction of the Project is not Complete within the time set forth in Section 7.11.

(m) the bankruptcy or insolvency of the General Contractor and failure of Borrower to procure a contract with a new contractor satisfactory to Bondholder within thirty (30) days from the occurrence of such bankruptcy or insolvency.

Notwithstanding anything to the contrary herein, the Bondholder hereby agrees that any cure of any default by the Borrower made or tendered by one or more of the Borrower's members (including, without limitation, the Investor Member) shall be deemed a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower. Additionally, Bondholder agrees to standstill on its remedies discussed in Section 12.2 if and to the extent the Bondholder has not given at least fifteen (15) days' written notice to the Investor Member of the occurrence of an Event of Default.

Section 12.2. Remedies on Default. If any one or more of the foregoing Events of Default shall occur, then the Bondholder (as assignee of the Issuer pursuant to the Bond Issuance Agreement) shall have the right, but not the obligation, and without notice, to exercise any one or more of the following rights and remedies, at any time and from time to time, singularly, successively or collectively, and in such order and when and as often as may from time to time be determined:

(a) The Bondholder may exercise any right, power or remedy permitted to it by law as a holder of the Borrower Note, including the right to declare the entire principal of and all unpaid interest accrued on the Borrower Note to be, and upon written notice to the Borrower (with a copy to the Issuer) of such declaration such Borrower Note and the unpaid accrued interest thereon shall become, due and payable, without presentment, demand or protest, all of which are hereby expressly waived. The Borrower shall forthwith pay to the Bondholder the entire principal of and interest accrued on the Borrower Note. There shall be automatically waived, rescinded and annulled such declaration of acceleration of the Borrower Note and the consequences thereof when any declaration of acceleration of the Bonds pursuant to Section 7.02 of the Bond Issuance Agreement has been waived, rescinded and annulled.

(b) The Bondholder may take whatever action at law or in equity that may appear necessary or desirable to collect the payments and other amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Loan Agreement or the other Borrower Collateral Documents.

(c) The Bondholder may direct the Fiscal Agent to withhold further disbursements of proceeds made available to the Borrower hereunder.

If the Bondholder shall have proceeded to enforce its rights under this Loan Agreement, the Borrower Note, the Borrower Collateral Documents or the Security for the Bonds, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Bondholder, then and in every such case the Borrower, the Issuer

and the Bondholder shall be restored, respectively, to their several positions and rights hereunder and thereunder, and all rights, remedies and powers of the Borrower, the Issuer and the Bondholder shall continue as though no such proceeding had been taken.

If there shall be pending proceedings for the bankruptcy or for the reorganization of the Borrower under the federal bankruptcy laws or any other applicable law, or in case a custodian, receiver or trustee shall have been appointed for any of the Property of the Borrower, or in the case of any other similar judicial proceedings relative to the Borrower, or to the creditors or Property of the Borrower, the Issuer and the Bondholder shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount owing and unpaid pursuant to the Borrower Note and this Loan Agreement, and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Issuer and the Bondholder allowed in such judicial proceedings relative to the Borrower, its creditors or its Property, and to collect and receive any moneys or other property payable or deliverable on such claims, and to distribute the same after the deduction of its charges and expenses; and any custodian, receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized to make such payments to the Issuer and the Bondholder, and to pay to the Issuer and the Bondholder any amount due it for compensation and expenses, including attorneys' and paralegals' fees, costs, disbursements and expenses incurred by it up to the date of such distribution.

Section 12.3. Right to Perform Covenants; Advances. Notwithstanding anything to the contrary contained herein, if the Borrower shall fail to make any payment or perform any act required to be made or performed by it hereunder, then and in each such case the Issuer or the Bondholder, upon not less than 15 days' prior written notice to the Borrower, may (but shall not be obligated to) remedy such failure for the account of the Borrower, and make advances for that purpose. If such failure involves, has caused or threatens to cause a condition that must, in the opinion of the Issuer or the Bondholder, be cured immediately, the Issuer or the Bondholder may remedy such failure without prior notice to the Borrower. No such performance or advance shall operate to release the Borrower from any such default and any sums so advanced shall be repayable by the Borrower on demand, and shall bear interest at the Past Due Rate. The Issuer agrees that the Bondholder, in its name or in the name of the Issuer, may enforce all rights of the Issuer and all obligations of the Borrower under and pursuant to this Loan Agreement, and the Issuer will not enforce such rights and obligations itself except at the written direction of the Bondholder, in each case whether or not the Issuer is in Default under the Bond Issuance Agreement; provided, however, that the Issuer hereby reserves to itself the right to enforce all Issuer Reserved Rights.

#### Section 12.4. Costs and Expenses.

(a) The Borrower agrees to pay on demand all of the reasonable out-of-pocket costs and expenses of the Issuer (including the reasonable fees and out-of-pocket expenses of the Issuer's counsel, Bond Counsel, the Bondholder's counsel and local counsel, if any, who may be retained by said counsel) in connection with the preparation, negotiation, execution, delivery and administration of this Loan Agreement, the Borrower Note, the Borrower Collateral Documents or the Security for the Bonds and all other agreements, certificates, instruments or documents provided for herein or delivered or to be delivered hereunder or in connection herewith

(including all amendments, supplements, modifications, restatements and waivers executed and delivered pursuant hereto or in connection herewith). The Borrower further agrees that the Issuer, in its sole discretion, may deduct all such unpaid amounts from the aggregate proceeds of the Borrower Note.

(b) The costs, fees, disbursements and expenses that the Issuer incurs with respect to the following shall be part of the Liabilities, payable by the Borrower on demand if, at any time after the date of this Loan Agreement, the Issuer: (i) employs counsel for advice or other representation (A) with respect to the amendment or enforcement of this Loan Agreement, the Borrower Note, the Borrower Collateral Documents or the Security for the Bonds, (B) to represent the Issuer in any work-out or any type of restructuring of the Borrower Note or the Bonds, or any litigation, contest, dispute, suit or proceeding or to commence, defend or intervene or to take any other action in or with respect to any litigation, contest, dispute, suit or proceeding (whether instituted by the Issuer, the Bondholder, the Borrower or any other Person) in any way or respect relating to this Loan Agreement, the Borrower Note, the Borrower Collateral Documents, the Security for the Bonds or the Borrower's affairs, or any collateral securing the Liabilities hereunder, or (C) to enforce any of the rights of the Issuer with respect to the Borrower; and/or (ii) seeks to enforce or enforces any of the rights and remedies of the Issuer with respect to the Borrower. Without limiting the generality of the foregoing, such expenses, costs, charges, disbursements and fees include: fees, costs, disbursements and expenses of attorneys, accountants and consultants; court costs and expenses; court reporter fees, costs and expenses; long distance telephone charges; and telegram and facsimile charges.

(c) The Borrower agrees to pay on demand, and to save and hold the Issuer harmless from all liability for, any stamp or other taxes that may be payable in connection with or related to the execution or delivery of this Loan Agreement, the Borrower Note, the Borrower Collateral Documents, the Security for the Bonds, the Bonds or of any other agreements, certificates, instruments or documents provided for herein or delivered or to be delivered hereunder or in connection herewith.

(d) All of the Borrower's obligations provided for in this Section 12.4 shall be Liabilities and shall survive repayment of the Bonds and the Borrower Note, cancellation of the Bonds and the Borrower Note, or any termination of this Loan Agreement or any related document.

Section 12.5. Exercise of Remedies. No remedy herein conferred upon or reserved to the Issuer or the Bondholder is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under this Loan Agreement, the Borrower Note, the Borrower Collateral Documents, if any, or the Security for the Bonds, or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Bondholder to exercise any remedy reserved to it in this Article XII, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. Such rights and remedies as are given the Issuer hereunder shall also extend



to the Bondholder to the extent applicable, and the Bondholder shall be deemed a third-party beneficiary of all covenants and agreements herein contained.

Section 12.6. Default by Issuer; Limited Liability. Notwithstanding any provision or obligation to the contrary herein set forth, no provision of this Loan Agreement shall be construed so as to give rise to a pecuniary liability of the Issuer or a charge upon the general credit of the Issuer. The liability of the Issuer hereunder shall be limited to its interest in this Loan Agreement, the Borrower Note, the Borrower Collateral Documents, if any, and the Security for the Bonds, and the Lien of any judgment shall be restricted thereto. In the performance of the agreements of the Issuer herein contained, any obligation it may incur for the payment of money shall not be a debt of the Issuer, and the Issuer shall not be liable on any obligation so incurred. The Issuer does not assume general liability for the repayment of the Bonds or for the costs, fees, penalties, taxes, interest, commissions, charges, insurance or any other payments recited herein, and the Issuer shall be obligated to pay the same only out of Revenues. The Issuer shall not be required to do any act whatsoever, or exercise any diligence whatsoever, to mitigate the damages to the Borrower if an Event of Default shall occur hereunder.

Section 12.7. Application of Funds. All funds received by the Bondholder are subject to the rights given or action taken under the provisions of Article VII of the Bond Issuance Agreement. Notwithstanding any other provision of this Loan Agreement or the Bond Issuance Agreement to the contrary, funds received by the Bondholder may be applied (a) as long as an Event of Default has not occurred and is not continuing, to the payments and other amounts, if any, then due under the Borrower Note or, if all such payments and other amounts, if any, have been paid, the same may be applied as directed by the Borrower (subject to the restrictions of the Land Use Restriction Agreement and the Tax Certificate), and (b) if an Event of Default has occurred and is continuing, as directed and in such order as determined by the Bondholder.

## ARTICLE XIII

### INDEMNIFICATION

Section 13.1. Indemnification of Issuer and Fiscal Agent. (a) Except as otherwise provided below and subject to Section 14.1 hereof, the Issuer and the Fiscal Agent, and each of their officers, agents, independent contractors, employees, successors and assigns, and, in the case of the Issuer, its elected and appointed officials, past, present or future (hereinafter the "Indemnified Persons"), shall not be liable to the Borrower for any reason. Unless caused by the gross negligence or intentional misconduct of an Indemnified Party, the Borrower shall defend, indemnify and hold the Indemnified Persons harmless from any loss, claim, damage, tax, penalty or expense (including, but not limited to, reasonable counsel fees, costs, expenses and disbursements), or liability (other than with respect to payment of the principal of or interest on the Borrower Note) of any nature due to any and all suits, actions, legal or administrative proceedings, or claims arising or resulting from, or in any way connected with: (i) the financing, installation, operation, use or maintenance of the Project; (ii) any act, failure to act, or misrepresentation by the Borrower or any member of the Borrower, or any Person acting on behalf of, or at the direction of, the Borrower or any member of the Borrower, in connection with the issuance, sale or delivery of the Bonds; (iii) any false or misleading representation made by

the Borrower in the Borrower Documents; (iv) the breach by the Borrower of any covenant contained in the Borrower Documents, or the failure of the Borrower to fulfill any such covenant which is not cured within all applicable notice and cure periods; (v) enforcing any obligation or liability of the Borrower under this Loan Agreement, the Borrower Note, the Borrower Collateral Documents, the Security for the Bonds or the Borrower Documents, or any related agreement; (vi) taking any action requested by the Borrower; (vii) taking any action reasonably required by the Borrower Documents; or (viii) taking any action considered necessary by the Issuer or the Fiscal Agent, and which is authorized by the Borrower Documents. If any suit, action or proceeding is brought against any Indemnified Person, the interests of the Indemnified Person in that suit, action or proceeding shall be defended by counsel to the Indemnified Person or the Borrower, as the Indemnified Person shall determine. If such defense is by counsel to the Indemnified Person, the Borrower shall indemnify and hold harmless the Indemnified Person for the cost of that defense, including counsel fees, disbursements, costs and expenses. If the Indemnified Persons affected by such suit determine that the Borrower shall defend the Indemnified Persons, the Borrower shall immediately assume the defense at its own cost. Neither the Indemnified Persons nor the Borrower shall be liable for any settlement of any proceeding made without each of their consent. In no event shall the Borrower be liable to an Indemnified Person for its own willful misconduct or gross negligence.

(b) Any provision of this Loan Agreement or any other instrument or document executed and delivered in connection therewith to the contrary notwithstanding, the Issuer retains the right to enforce: (i) any applicable federal or state law or regulation or resolution of the Issuer; and (ii) any rights accorded the Issuer by federal or state law or regulation or resolution of the Issuer, and nothing in this Loan Agreement shall be construed as an express or implied waiver thereof.

(c) If the Indemnified Persons are requested by the Borrower to take any action under this Loan Agreement or any other instrument executed in connection herewith for the benefit of the Borrower, they will do so if and only if: (i) the Indemnified Persons are a necessary party to any such action; (ii) the Indemnified Persons have received specific written direction from the Borrower, as required hereunder or under any other instrument executed in connection herewith, as to the action to be taken by the Indemnified Persons; and (iii) a written agreement of indemnification and payment of costs, liabilities and expenses satisfactory to the Indemnified Persons has been executed by the Borrower prior to the taking of any such action by the Indemnified Persons.

(d) The obligations of the Borrower under this Section 13.1 shall survive any assignment or termination of this Loan Agreement and, as to the Fiscal Agent, any resignation or removal of the Fiscal Agent.

(e) Indemnification of the Issuer by the Borrower with respect to environmental matters shall be governed exclusively by the terms and provisions of the Environmental Indemnity Agreement.

## ARTICLE XIV

### MISCELLANEOUS

Section 14.1. Non-recourse Liability; Exceptions. Subject to the terms contained in the next succeeding paragraph, following the Conversion Date, the covenants and agreements contained in this Loan Agreement and the Borrower Note shall be non-recourse to the Borrower and all members thereof, and in the event of a default hereunder or under any related document, the sole source of satisfaction of repayment of the amounts due to the Issuer and the Bondholder hereunder and under the Borrower Note shall be limited to the rights of the Issuer and Bondholder hereunder and under the Borrower Documents, as well as under any guarantees.

Notwithstanding the immediately preceding paragraph, nothing in this Loan Agreement, in the Borrower Note, in the Borrower Collateral Documents or in the Security for the Bonds shall limit the rights of the Issuer or the Bondholder, following any of the events hereinafter described, to take any action as may be necessary or desirable to pursue the Borrower, the Managing Member, (prior to the date the Project is Complete, the Guarantors) or the Developer for any and all losses incurred by the Issuer or the Bondholder arising from (i) a material misrepresentation, fraud made in writing or misappropriation of funds by the Borrower, the Managing Member, the Guarantors or the Developer; (ii) intentional or material waste to the Premises; (iii) use of proceeds of the Loan for costs other than Costs of the Project, (iv) except as may be permitted herein, any transfer of title to all or any portion of the Project without the Issuer's and the Bondholder's prior written consent; (v) the misappropriation or misapplication of insurance proceeds or condemnation awards relating to the Project by the Borrower, the Managing Member or the Developer; (vi) the recovery of rents more than one-month in advance in violation of the Borrower Collateral Documents; (vii) any indemnity by the Borrower or any other party, any guaranties, completion agreements and any similar rights to payment and performance that have been or may be executed, or that have been or may be granted, by the Borrower or any other party in connection with the Loan; or (viii) the default (after expiration of any notice and cure period) by Borrower or the Managing Member in the performance of their respective obligations under this Loan Agreement or the Borrower Note relating to preserving the condition of the Premises or the enforceability or priority of the Issuer's or the Bondholder's interest in the Security for the Bonds, including obligations to pay all taxes and charges that may affect or become a lien on the Premises, to maintain the Premises and all insurance in accordance with this Loan Agreement and to repay all sums advanced by Issuer or Bondholder for any such purposes.

Section 14.2. Severability. If any provision of this Loan Agreement shall be held or deemed to be, or shall, in fact, be, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions. or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution, statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatsoever. The invalidity of any one or more phrases, sentences, clauses or Sections contained in this Loan Agreement shall not affect the remaining portions of this Loan Agreement, or any part thereof; provided, however, that no holding of invalidity shall require the Issuer to make any payment from any moneys other than Revenues.

Section 14.3. Notices. Any notice, request, complaint, demand, communication or other paper shall be in writing and shall be sufficiently given and shall be deemed given when

delivered or mailed by registered or certified mail, postage prepaid, return-receipt requested, or overnight courier service, addressed as follows:

If to the Issuer:	City of Chicago, Illinois Office of Corporation Counsel City Hall, Room 600 121 N. LaSalle Street - Chicago, Illinois 60602
With a copy to:	City of Chicago, Illinois Department of Finance 121 N. LaSalle Street, 7 <sup>th</sup> Floor Chicago, Illinois 60602 Attention: Chief Financial Officer
If to the Borrower:	c/o Related Midwest LLC 350 W. Hubbard Street Suite 300 Chicago, IL 60654-5798 Attn: Jacques Sandberg, Vice President of Affordable Housing
With a copy to:	Applegate & Thorne-Thomsen, P.C. 440 S. LaSalle Street, Suite 1900 Chicago, Illinois 60605 Attention: Bennett P. Applegate
With a copy to:	Investor Member
If to the Fiscal Agent:	BMO Harris Bank N.A. Community Development Lending Group 115 S. LaSalle St., 19W Chicago, Illinois 60603 Attention: Katherine Mazzocco
If to the Bondholder:	At the address shown in the books of the Bond Registrar
With copies to:	BMO Harris Bank N.A. Community Development Lending Group 115 S. LaSalle St., 20W Chicago, Illinois 60603 Attention: Katherine Mazzocco

Albert, Whitehead, P.C.  
10 N. Dearborn St., Suite 600  
Chicago, IL 60602  
Attention: Greg Whitehead

If to CHA:

Chicago Housing Authority  
60 E. Van Buren, 12<sup>th</sup> Floor  
Chicago, IL 60605  
Attention: Chief Executive Officer

With a copy to:

Chicago Housing Authority  
60 E. Van Buren, 12<sup>th</sup> Floor  
Chicago, IL 60605  
Attention: Chief Legal Officer

A duplicate copy of each notice required to be given hereunder by the Bondholder or the Fiscal Agent to the Issuer or the Borrower shall also be given to the others. The Issuer, the Borrower, the Fiscal Agent and the Bondholder may designate any further or different addresses to which subsequent notices, requests, complaints, demands, communications and other papers shall be sent.

Section 14.4. Assignments. Except as otherwise expressly provided herein, this Loan Agreement may not be assigned by any party without the consent of the other and the Bondholder, except that the Issuer shall assign to the Bondholder certain of its rights under this Loan Agreement as provided by Section 4.2 hereof, and the Bondholder may assign such rights to its successors and assigns as owner of the Bonds.

Section 14.5. Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument; provided, however, that for purposes of perfecting a security interest in this Loan Agreement under Article 9 of the Illinois Uniform Commercial Code, only the counterpart delivered, pledged and assigned to the Bondholder shall be deemed the original.

Section 14.6. Amounts Remaining in the Bond Issuance Agreement Funds. It is agreed by the parties hereto that after payment in full of: (a) the principal of and interest on the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Bond Issuance Agreement); (b) the fees, charges, disbursements, costs and expenses of the Bondholder and the Fiscal Agent in accordance with the Bond Issuance Agreement; and (c) all other amounts required to be paid under this Loan Agreement, the Borrower Note and the Bond Issuance Agreement, then any amounts remaining in any of the Funds or Accounts created under the Bond Issuance Agreement shall be paid by the Fiscal Agent as follows: (i) first, to the Issuer to the extent of any moneys owed by the Borrower to the Issuer pursuant to the Bond Documents, and (ii) second, to the Borrower.

Section 14.7. Amendments, Changes and Modifications. Subsequent to the initial issuance of the Bonds and prior to their payment in full (or provision for payment thereof having been made in accordance with the provisions of the Bond Issuance Agreement), this Loan

Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the Bondholder and, with respect to the Issuer Reserved Rights, the Issuer.

Section 14.8. Governing Law; Jury Trial. This Loan Agreement and the Borrower Note, and the rights and obligations of the parties hereunder and thereunder, shall be construed in accordance with, and shall be governed by, the laws of the State of Illinois, without regard to its conflict of laws principles.

**THE BORROWER HEREBY IRREVOCABLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING (I) TO ENFORCE OR DEFEND ANY RIGHTS UNDER OR IN CONNECTION WITH THIS LOAN AGREEMENT OR THE BORROWER NOTE, OR ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED, OR WHICH MAY IN THE FUTURE BE DELIVERED, IN CONNECTION HERewith OR THEREWITH, OR (II) ARISING FROM ANY DISPUTE OR CONTROVERSY IN CONNECTION WITH OR RELATED TO THIS LOAN AGREEMENT OR THE BORROWER NOTE, OR ANY SUCH AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT, AND AGREES THAT ANY SUCH ACTION OR COUNTERCLAIM SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.**

**THE BORROWER IRREVOCABLY AGREES THAT, SUBJECT TO THE ISSUER'S SOLE AND ABSOLUTE ELECTION, ANY ACTION OR PROCEEDING IN ANY WAY, MANNER OR RESPECT ARISING OUT OF THIS LOAN AGREEMENT, THE BORROWER NOTE, THE BORROWER COLLATERAL DOCUMENTS AND THE SECURITY FOR THE BONDS, OR ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR THEREWITH, OR ARISING FROM ANY DISPUTE OR CONTROVERSY ARISING IN CONNECTION WITH OR RELATED TO THIS LOAN AGREEMENT, THE BORROWER NOTE, THE BORROWER COLLATERAL DOCUMENTS AND THE SECURITY FOR THE BONDS, OR ANY SUCH AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT, SHALL BE LITIGATED ONLY IN THE COURTS HAVING SITUS WITHIN THE CITY OF CHICAGO, STATE OF ILLINOIS, AND THE BORROWER HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED WITHIN SUCH CITY AND STATE. THE BORROWER HEREBY WAIVES ANY RIGHT IT MAY HAVE TO TRANSFER OR CHANGE THE VENUE OF ANY LITIGATION BROUGHT AGAINST IT IN ACCORDANCE WITH THIS SECTION.**

Section 14.9. Term of Loan Agreement. This Loan Agreement shall be in full force and effect from the date hereof, and shall continue in effect until the indefeasible payment in full of all Liabilities. All representations, certifications and covenants by the Borrower as to the indemnification of various parties (including, without limitation, the Issuer and the Issuer Indemnified Persons) and the payment of fees and expenses of the Issuer as described herein, and all matters affecting the tax-exempt status of the Bonds shall survive the termination of this Loan Agreement and the payment in full of the Borrower Note and the Bonds.

Section 14.10. Bond Issuance Agreement Provisions. The Bond Issuance Agreement provisions concerning the Bonds and the other matters therein are an integral part of the terms and conditions of the Loan made by the Issuer to the Borrower pursuant to this Loan Agreement, and the execution of this Loan Agreement shall constitute conclusive evidence of approval of the Bond Issuance Agreement by the Borrower to the extent it relates to the Borrower and the Project. Additionally, the Borrower agrees that, whenever the Bond Issuance Agreement by its terms imposes a duty or obligation upon the Borrower, such duty or obligation shall be binding upon the Borrower to the same extent as if the Borrower were an express party to the Bond Issuance Agreement, and the Borrower hereby agrees to carry out and perform all of its obligations under the Bond Issuance Agreement as fully as if the Borrower were a party to the Bond Issuance Agreement.

Section 14.11. Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the Issuer and the Borrower, and their respective successors and assigns; subject, however, to the limitations contained in Section 4.2 hereof.

Section 14.12. Immunity of Issuer's Officers. No recourse shall be had for the payment of any principal of or interest on the Bonds, or for any obligation, covenant or agreement contained in this Loan Agreement, against any past, present or future officer, member, supervisor, director, agent or employee of the Issuer, or any successor entity, as such, either directly or through the Issuer or any such successor entity, under any rule of law or equity, statute or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officer, member, supervisor, director, agent or employee as such is hereby expressly waived and released as a condition of, and in consideration for, the execution and delivery of this Loan Agreement.

Section 14.13. Participations. (a) The Borrower acknowledges that the Bondholder shall have the right to grant participations in the Bonds and the Borrower Note, pursuant to the Bond Issuance Agreement, all without notice to or consent from the Borrower. No holder of a participation in the Bonds or the Borrower Note shall have any rights under this Loan Agreement.

(b) The Borrower hereby consents to the disclosure of any information obtained in connection herewith by the Issuer to any Person that is a participant or potential participant pursuant to clause (a) above, it being understood that the Issuer and its assigns shall advise any such Person of its obligation to keep confidential any nonpublic information disclosed to it pursuant to this Section 14.13. The Issuer shall advise the Borrower of each Person that becomes a participant pursuant to clause (a) above.

Section 14.14. Waivers. If any agreement contained in this Loan Agreement should be breached by the Borrower and thereafter waived in writing by the Issuer or the Bondholder, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. For any waiver hereunder to be effective, such shall be in writing and signed by an authorized representative of the party granting the waiver.

Section 14.15. Patriot Act Notification.

(a) As of the date of this Loan Agreement the Borrower is, and during the term of this Loan Agreement the Borrower shall remain, in full compliance with all the applicable laws and regulations of the United States of America that prohibit, regulate or restrict financial transactions, including, but not limited to, conducting any activity or failing to conduct any activity, if such action or inaction constitutes a money laundering crime, including any money laundering crime prohibited under the Money Laundering Control Act, 18 U. S. C. 1956, 1957, or the Bank Secrecy Act, 31 U. S. C. 5311 et seq. and any amendments or successors thereto and any applicable regulations promulgated thereunder.

(b) The Borrower represents and warrants that: (a) neither it, nor any of its members, or any officer, director or employee, is named as a "Specially Designated National and Blocked Person" as designated by the United States Department of the Treasury's Office of Foreign Assets Control, or as a person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; (b) it is not owned or controlled, directly or indirectly, by the government of any country that is subject to a United States Embargo; and (c) it is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by the United States Treasury Department as a "Specially Designated National and Blocked Person," or for or on behalf of any person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; and that it is not engaged in this transaction directly or indirectly on behalf of, or facilitating this transaction directly or indirectly on behalf of, any such person, group, entity or nation.

(c) The Borrower acknowledges that it understands and has been advised by its own legal counsel as to the requirements of the applicable laws referred to above, including the Money Laundering Control Act, 18 U. S. C. 1956, 1957, the Bank Secrecy Act, 31 U. S. C. 5311 et seq., the applicable regulations promulgated thereunder, and the Foreign Assets Control Regulations, 31 C. F. R. Section 500 et seq.

Section 14.16. Entire Agreement. This Loan Agreement, together with the Borrower Note, the Borrower Collateral Documents, the Security for the Bonds, the Bonds and the Bond Issuance Agreement, constitutes the entire agreement among the parties with respect to the subject matter hereof, and supersedes all written or oral understandings with respect thereto.

[Signatures Appear on Following Page]



IN WITNESS WHEREOF, the parties have executed this instrument as of the date first above written.

**CITY OF CHICAGO**

[SEAL]

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

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_

**TAYLOR STREET LA LLC:**

TAYLOR STREET LA LLC,  
an Illinois limited liability company

By: Roosevelt Square LLC,  
an Illinois limited liability company, its manager

By: LR ABLA LLC,  
a Delaware limited liability company, its manager

By: LR Development Company LLC,  
a Delaware limited liability company, d/b/a Related Midwest LLC, its sole  
member

By: \_\_\_\_\_  
Jacques Sandberg  
Vice President and Secretary

**BMO HARRIS BANK N.A.,**  
as Bondholder

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

## **NON-RECOURSE ASSIGNMENT**

With the exception of the Issuer Reserved Rights, the interest of the CITY OF CHICAGO in this Loan Agreement and all amounts receivable hereunder have been assigned, without recourse, to BMO HARRIS BANK N.A., the registered owner of the Bonds. For purposes of Article 9 of the Illinois Uniform Commercial Code, the counterpart of this Loan Agreement pledged, delivered and assigned to the Bondholder shall be deemed the original.

**CITY OF CHICAGO**

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

**EXHIBIT A-1**  
**FORM OF BORROWER NOTE**

**\$(Principal)**

\_\_\_\_, 2017

**CHICAGO, ILLINOIS**

The undersigned, FOR VALUE RECEIVED, promise to pay to the order of the CITY OF CHICAGO (the "Issuer"), at the principal office of BMO HARRIS BANK N.A. in Chicago, Illinois, \_\_\_\_\_ DOLLARS (\$(Principal)) or, if less, the aggregate unpaid principal balance of the Loan (as defined in the hereinafter defined Loan Agreement) made by the Issuer to the undersigned pursuant to the Loan Agreement, due and payable on the Maturity Date (as defined in the Loan Agreement) or at such earlier time as provided in the Loan Agreement.

The undersigned also promises to pay interest on the unpaid principal amount hereof from time to time outstanding from the date hereof until maturity (whether by acceleration or otherwise) and, after maturity, until paid, at the rates per annum and on the dates specified in the Loan Agreement. Principal of and interest on this Bond shall be payable at such times and in such amounts as shall be sufficient to pay the Issuer's Bonds issued under the Bond Issuance Agreement dated as of \_\_\_\_\_ 1, 2017 among the Issuer, BMO Harris Bank N.A., and BMO Harris Bank N.A., as Fiscal Agent.

Payments of principal and interest are to be made in lawful money of the United States of America in same day or immediately available funds.

This Borrower Note is the "Borrower Note" described in, and is subject to the terms and provisions of, a Loan Agreement, dated as of \_\_\_\_\_ 1, 2017 (as the same may at any time be amended or modified and in effect, the "Loan Agreement"), among the undersigned, the Issuer, and BMO Harris Bank N.A., and payment of this Borrower Note is secured as described in the Loan Agreement. Reference is hereby made to the Loan Agreement for a statement of the prepayment rights and obligations of the undersigned, a description of the nature and extent of the security, and the rights of the parties to the related documents in respect of such security, and for a statement of the terms and conditions under which the due date of this Borrower Note may be accelerated. Upon the occurrence of any Event of Default as specified in the Loan Agreement, the unpaid principal balance hereof, and interest accrued hereon, may be declared to be forthwith due and payable.

In addition to, and not in limitation of, the foregoing and the provisions of the Loan Agreement, the undersigned further agrees, subject only to any limitation imposed by applicable law, to pay all reasonable expenses, including, but not limited to, attorneys' fees and legal expenses, incurred by the registered owner of this Borrower Note in endeavoring to collect any amounts payable hereunder which are not paid when due, whether by acceleration or otherwise.

Subject to certain limitations set forth in Section 14.1 of the Loan Agreement, this Borrower Note shall be non-recourse with respect to the undersigned and its members.

All parties hereto, whether as makers, endorsers or otherwise severally waive presentment for payment, demand, protest and notice of dishonor.

THIS BORROWER NOTE HAS BEEN DELIVERED IN CHICAGO, ILLINOIS, AND SHALL BE DEEMED TO BE A CONTRACT MADE UNDER AND GOVERNED BY THE INTERNAL LAWS OF THE STATE OF ILLINOIS.

**BORROWER,**  
an Illinois limited partnership

[Insert Signature Block]

#### **NON-RECOURSE ENDORSEMENT**

Pay to the order of BMO Harris Bank N.A., without recourse against the undersigned.

**CITY OF CHICAGO**

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

**EXHIBIT B**  
**COSTS OF PROJECT**

## EXHIBIT C

### FORM OF DISBURSEMENT REQUEST

BMO Harris Bank N.A.,  
as Fiscal Agent  
Community Development Lending Group  
115 South LaSalle St., 20W  
Chicago, Illinois 60603  
Attention: \_\_\_\_\_

Ladies and Gentlemen:

This Disbursement Request is delivered to you pursuant to Section 9.5 of the Loan Agreement, dated as of \_\_\_\_\_ 1, 2017 (as amended or modified, the "Loan Agreement"), between Taylor Street LA LLC, an Illinois limited liability company (the "Borrower"), and the City of Chicago (the "Issuer"). Unless otherwise defined herein, capitalized terms used herein have the meanings provided in the Loan Agreement.

The undersigned, on behalf of the Borrower, hereby requests that a disbursement be made in the aggregate principal amount of \$ \_\_\_\_\_ on \_\_\_\_\_ with respect to the Project.

The undersigned, on behalf of the Borrower, hereby certifies and warrants that on the date the disbursement requested hereby is made, after giving effect to the making of such disbursement:

(a) [that each obligation mentioned herein has been properly incurred subsequent to \_\_\_\_\_, is a proper Project cost, and is in compliance with all provisions of the Tax Certificate, including, without limitation, the requirement that at least 95% of all costs disbursed to date, including the current disbursement, constitute costs that are chargeable to the Project's capital account, and solely constitute expenditures that will be capitalized for federal income tax purposes and are for land or property that will qualify for depreciation under the Code and will result in property having a useful life to the borrower of more than one year] OR [to the extent such disbursement is requested to pay interest on the Bonds, such amount disbursed represents interest chargeable to the Borrower's capital account for federal tax law purposes];

(b) that no portion of the amount to be disbursed hereby is for costs of issuance (as defined in the Tax Certificate);

(c) no Default or Event of Default has occurred and is continuing, or will result from the making of such disbursement; and

(d) the representations and warranties of the Borrower contained in Article VI of the Loan Agreement are true and correct with the same effect as though made on the date hereof.



The undersigned, on behalf of the Borrower, agrees that if, prior to the time of the funding of the disbursement requested hereby, any matter certified to herein by it will not be true and correct in all material respects at the time of such funding as if then made, it will immediately so notify the Fiscal Agent and the Issuer. Except to the extent, if any, that prior to the time of the funding of the disbursement requested hereby the Fiscal Agent shall receive written notice to the contrary from the undersigned, on behalf of the Borrower, or the Borrower, each matter certified to herein shall be deemed once again to be certified as true and correct at the date of such funding as if then made.

Please wire transfer the proceeds of the disbursement to the Title Company pursuant to the wire transfer instructions as set forth on Annex I attached hereto.

This certificate is given by the undersigned on behalf of the Borrower.

The undersigned has caused this Disbursement Request to be executed and delivered, and the certification and warranties contained herein to be made, by an authorized officer this \_\_ day of \_\_\_\_\_, 201\_\_.

**TAYLOR STREET LA LLC:**  
an Illinois limited liability company

By: Roosevelt Square LLC,  
an Illinois limited liability company, its manager

By: LR ABLA LLC,  
a Delaware limited liability company, its manager

By: LR Development Company LLC,  
a Delaware limited liability company, d/b/a Related Midwest LLC, its sole member

By: \_\_\_\_\_  
Jacques Sandberg  
Vice President and Secretary

APPROVED:

**BMO HARRIS BANK N.A.,**  
a national banking association

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

APPROVED:

[INSPECTING ARCHITECT]

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

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

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

ANNEX I

Amount to be <u>Transferred</u>	<u>Person to be Paid</u>	Name, Address, etc. <u>of Transferee</u>
\$ _____	Name Account No.	[Title Company] _____ _____ _____ Attention: _____

## EXHIBIT D

### WIRE TRANSFER INSTRUCTIONS

#### DOMESTIC WIRE INSTRUCTIONS:

Bank Name: BMO Harris Bank N.A.

ABA/Routing No.: 071-000-288

Account Name: \_\_\_\_\_

Account No.: \_\_\_\_\_

Reference: Taylor Street LA LLC

**EXHIBIT E**  
**ENVIRONMENTAL DISCLOSURES**

**EXHIBIT F**  
**FUNDING SCHEDULE**

(See Attached)

**EXHIBIT D**

**Form of Land Use Restriction Agreement**

(See Attached)

Recording Requested By and When Recorded Send to:  
Reyes Kurson, Ltd.  
328 South Jefferson Street, Suite 909  
Chicago, Illinois 60661  
Attention: Lauren Mack

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**LAND USE RESTRICTION AGREEMENT**

between

**CITY OF CHICAGO**

and

**TAYLOR STREET LA LLC,**  
an Illinois limited liability company

Dated as of \_\_\_\_\_ 1, 2017

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## LAND USE RESTRICTION AGREEMENT

THIS LAND USE RESTRICTION AGREEMENT (this "Agreement"), entered into as of \_\_\_\_\_ 1, 2017, between the **CITY OF CHICAGO**, a municipal corporation and home rule unit of government duly organized and validly existing under the Constitution and laws of the State of Illinois (the "**City**"), and **TAYLOR STREET LA LLC**, an Illinois limited liability (the "**Borrower**"),

WHEREAS, the Issuer has issued, sold and delivered its \$[Principal] Multi-Family Housing Revenue Bonds (Taylor Street Library and Apartments Project) Series 2017 (the "**Bonds**"); and

WHEREAS, the Bonds are issued pursuant to a Bond Issuance Agreement of even date herewith (the "**Bond Issuance Agreement**"), among the Issuer, BMO Harris Bank N.A., as Bondholder (the "**Bondholder**") and BMO Harris Bank N.A., as Fiscal Agent (the "**Fiscal Agent**"), and the proceeds derived from the issuance and sale of the Bonds have been lent by the Issuer to the Borrower pursuant to the Loan Agreement of even date herewith (the "**Loan Agreement**"), between the Issuer and the Borrower to finance costs of a mixed use, midrise building that will contain mixed-income one and two bedroom rental units, community green space, and a library, which includes 7 market-rate rental units, 37 CHA public housing (RAD) units, and 29 tax credit units[, all of which will be leased to public housing (RAD) residents]. (together with all rights and interests of the Borrower in common areas in such building and on the related site, the "**Units**"), located on the site described in Exhibit A hereto (the "**Site**" and, together with the Units, the "**Project**"); and

WHEREAS, the Chicago Housing Authority ("**CHA**") has donated to \_\_\_\_\_ ("Sponsor") a 99-year ground lease of the Site, and Sponsor has assigned its leasehold interest in the Site to the Borrower, who will construct the Units; and

WHEREAS, in order to assure the Issuer and the owners of the Bonds that interest on the Bonds will be excluded from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (the "**Code**"), and to further the public purposes of the Issuer, certain restrictions on the use and occupancy of the Project under the Code must be established;

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, and of other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the Borrower and the Issuer agree as follows:

### Section 1. Term of Restrictions.

(a) **Occupancy Restrictions.** The term of the Occupancy Restrictions set forth in Section 3 hereof shall commence on the first day on which at least 10% of the Units are first occupied following completion of such Units and shall end on the latest of (i) the date which is 15 years after the date on which at least 50% of the Units in the Project are first occupied; (ii) the first date on which no tax-exempt note or bond (including any refunding note or bond) issued with respect to the Project is outstanding (treating, for such purpose, the Project as being financed in part by all Bonds); or (iii) the date on which any housing assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937, as amended, terminates (which period is hereinafter referred with respect to the Project as the "**Qualified**

**Project Period”).**

(b) **Rental Restrictions.** The Rental Restrictions with respect to the Project set forth in Section 4 hereof shall remain in effect during the Qualified Project Period.

(c) **Involuntary Loss or Substantial Destruction.** The Occupancy Restrictions set forth in Section 3 hereof, and the Rental Restrictions set forth in Section 4 hereof, shall cease to apply to the Project in the event of involuntary noncompliance caused by fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in federal law or an action of a federal agency (with respect to the Project) after the date of delivery of the Bonds, which prevents the Issuer from enforcing the Occupancy Restrictions and the Rental Restrictions (with respect to the Project), or condemnation or similar event (with respect to the Project), but only if, within a reasonable time, (i) all of the Bonds are promptly retired, or amounts received as a consequence of such event are used to provide a new project which meets all of the requirements of this Agreement, which new project is subject to new restrictions substantially equivalent to those contained in this Agreement, and which is substituted in place of the Project by amendment of this Agreement; and (ii) an opinion from nationally recognized bond counsel (selected by the Issuer) is received to the effect that noncompliance with the Occupancy Restrictions and the Rental Restrictions applicable to the Project as a result of such involuntary loss or substantial destruction resulting from an unforeseen event with respect to the Project will not adversely affect the exclusion of the interest on the Bonds from the gross incomes of the owners thereof for purposes of federal income taxation; provided, however, that the preceding provisions of this paragraph shall cease to apply in the case of such involuntary noncompliance caused by foreclosure, transfer of title by deed in lieu of foreclosure or similar event if at any time during the Qualified Project Period with respect to the Project subsequent to such event the Borrower or any Affiliated Party (as hereinafter defined) obtains an ownership interest in the Project for federal income tax purposes. “**Affiliated Party**” means a person whose relationship to another person is such that (i) the relationship between such persons would result in a disallowance of losses under Section 267 or 707(b) of the Code; or (ii) such persons are members of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that “more than 50%” shall be substituted for “at least 80%” each place it appears therein).

(d) **Termination.** This Agreement shall terminate with respect to the Project upon the earliest of (i) termination of the Occupancy Restrictions and the Rental Restrictions with respect to the Project, as provided in paragraphs (a) and (b) of this Section 1; or (ii) delivery to the Issuer and the Borrower of an opinion of nationally recognized bond counsel (selected by the Issuer) to the effect that continued compliance of the Project with the Rental Restrictions and the Occupancy Restrictions applicable to the Project is not required in order for interest on the Bonds to remain excludible from gross income for federal income tax purposes.

(e) **Certification.** Upon termination of this Agreement, the Borrower and the Issuer shall execute and cause to be recorded (at the Borrower’s expense), in all offices in which this Agreement was recorded, a certificate of termination, specifying which of the restrictions contained herein has terminated.

(f) **Encumbrance of Fee.** In furtherance of enforcing compliance with the provisions of Section 142(d) of the Code and Section 1.103-8(b) of the Regulations applicable to this

Agreement, unless the provisions of paragraph (c) or (d) above apply to the Project resulting in a termination of the restrictions set forth herein, such restrictions shall continue to apply to the Project following the termination of the Borrower's or any other party's leasehold estate therein, whether or not the Project is thereafter re-leased by the Chicago Housing Authority until termination of the Occupancy Restrictions and the Rental Restrictions as provided in Sections 1(a) and (b).

**Section 2. Project Restrictions.** The Borrower represents, warrants and covenants that:

(a) The Borrower has reviewed the provisions of the Code and the Treasury Regulations thereunder (the "**Regulations**") applicable to this Agreement (including, without limitation, Section 142(d) of the Code and Section 1.103-8(b) of the Regulations) with its counsel and understands said provisions.

(b) The Project is being acquired, rehabilitated, constructed and equipped for the purpose of providing a "qualified residential rental project" (as such phrase is used in Section 142(d) of the Code) and will, during the term of the Rental Restrictions and Occupancy Restrictions hereunder applicable to the Project, continue to constitute a "qualified residential rental project" under Section 142(d) of the Code and any Regulations heretofore or hereafter promulgated thereunder and applicable thereto.

(c) Substantially all (not less than 95%) of the Project will consist of a "building or structure" (as defined in Section 1.103-8(b)(8)(iv) of the Regulations), or several proximate buildings or structures, of similar construction, each containing one or more similarly constructed residential units (as defined in Section 1.103-8(b)(8)(i) of the Regulations) located on a single tract of land or contiguous tracts of land (as defined in Section 1.103-8(b)(4)(ii)-(B) of the Regulations), which will be owned, for federal tax purposes, at all times by the same person, and financed pursuant to a common plan (within the meaning of Section 1.103-8(b)(4)(ii) of the Regulations), together with functionally related and subordinate facilities (within the meaning of Section 1.103-8(b)(4)(iii) of the Regulations). If any such building or structure contains fewer than five (5) units, no unit in such building or structure shall be Borrower-occupied.

(d) None of the Units in the Project will at any time be used on a transient basis, nor will the Project itself be used as a hotel, motel, dormitory, fraternity or sorority house, rooming house, hospital, nursing home, sanitarium, rest home or trailer park or court for use on a transient basis; (provided only that during the period of renovation of the Project, residents may occupy particular Units on a short-term basis to accommodate the renovations); nor shall any portion of the Project be operated as an assisted living facility which provides continual or frequent nursing, medical or psychiatric services; *provided, however* that nothing herein shall be understood to prohibit single room occupancy units occupied under month to month leases.

(e) Any functionally related and subordinate facilities (e.g., parking areas, swimming pools, tennis courts, etc.) which are included as part of the Project will be of a character and size commensurate with the character and size of the Project, and will be made available to all tenants in the Project on an equal basis; fees will only be charged with respect to the use thereof if the charging of fees is customary for the use of such facilities at similar residential rental properties in the surrounding area (i.e., within a one-mile radius), or, if none, then within comparable urban

settings in the City of Chicago, and then only in amounts commensurate with the fees being charged at similar residential rental properties within such area. In any event, any fees charged will not be discriminatory or exclusionary as to the Qualifying Tenants (as defined in Section 3 hereof). No functionally related and subordinate facilities will be made available to persons other than tenants or their guests.

(f) Each residential unit in the Project will contain separate and complete facilities for living, sleeping, eating, cooking and sanitation for a single person or family.

(g) No portion of the Project will be used to provide any health club facility, any facility primarily used for gambling, or any store, the principal business of which is the sale of alcoholic beverages for consumption off premises, in violation of Section 147(e) of the Code.

**Section 3. Occupancy Restrictions.** The Borrower represents, warrants and covenants with respect to the Project that:

(a) Pursuant to the election of the Issuer in accordance with the provisions of Section 142(d)(1)(A) of the Code, at all times during the Qualified Project Period with respect to the Project at least 40% of the completed Units in the Project shall be continuously occupied (or treated as occupied as provided herein) or held available for occupancy by Qualifying Tenants as herein defined. For purposes of this Agreement, "Qualifying Tenants" means individuals or families whose aggregate adjusted incomes do not exceed 60% of the applicable median gross income (adjusted for family size) for the area in which the Project is located, as such income and area median gross income are determined by the Secretary of the United States Treasury in a manner consistent with determinations of income and area median gross income under Section 8 of the United States Housing Act of 1937, as amended (or, if such program is terminated, under such program as in effect immediately before such determination).

(b) Prior to the commencement of occupancy of any unit to be occupied by a Qualifying Tenant, the prospective tenant's eligibility shall be established by execution and delivery by such prospective tenant of an Income Computation and Certification in the form attached hereto as **Exhibit B** (the "**Income Certification**") evidencing that the aggregate adjusted income of such prospective tenant does not exceed the applicable income limit. In addition, such prospective tenant shall be required to provide whatever other information, documents or certifications are reasonably deemed necessary by the Borrower or the Issuer to substantiate the Income Certification.

(c) Not less frequently than annually, the Borrower shall determine whether the current aggregate adjusted income of each tenant occupying any unit being treated by the Borrower as occupied by a Qualifying Tenant exceeds the applicable income limit. For such purpose the Borrower shall require each such tenant to execute and deliver the Income Computation and Certification attached hereto as **Exhibit B**; *provided, however*, that for any calendar year during which no unit in the Project is occupied by a new resident who is not a Qualifying Tenant, no Income Computation and Certification for existing tenants shall be required.

(d) Any unit vacated by a Qualifying Tenant shall be treated as continuing to be occupied by such tenant until reoccupied, other than for a temporary period not to exceed 31 days, at which time the character of such unit as a unit occupied by a Qualifying Tenant shall be redetermined.

(e) If an individual's or family's income exceeds the applicable income limit as of any date of determination, the income of such individual or family shall be treated as continuing not to exceed the applicable limit, provided that the income of an individual or family did not exceed the applicable income limit upon commencement of such tenant's occupancy or as of any prior income determination, and provided, further, that if any individual's or family's income as of the most recent income determination exceeds 140% of the applicable income limit, such individual or family shall cease to qualify as a Qualifying Tenant if, prior to the next income determination of such individual or family, any unit in the Project of comparable or smaller size to such individual's or family's unit is occupied by any tenant other than a Qualifying Tenant.

(f) The lease to be utilized by the Borrower in renting any Unit in the Project to a prospective Qualifying Tenant shall provide for termination of the lease and consent by such person to eviction following 30 days' written notice, subject to applicable provisions of Illinois law (including for such purpose all applicable home rule ordinances), for any material misrepresentation made by such person with respect to the Income Certification with the effect that such tenant is not a Qualified Tenant.

(g) All Income Certifications will be maintained on file at the Project as long as any Bonds are outstanding and for five years thereafter with respect to each Qualifying Tenant who occupied a Unit in the Project during the period the restrictions hereunder are applicable, and the Borrower will, promptly upon receipt, file a copy thereof with the Issuer.

(h) On the first day of the Qualified Project Period with respect to the Project, on the fifteenth days of January, April, July and October of each year during the Qualified Project Period with respect to the Project, and within 30 days after the final day of each month in which there occurs any change in the occupancy of a Unit in the Project, the Borrower will submit to the Issuer a "Certificate of Continuing Program Compliance," in the form attached hereto as **Exhibit C**, executed by the Borrower with respect to the Project.

(i) The Borrower shall submit to the Secretary of the United States Treasury (at such time and in such manner as the Secretary shall prescribe) with respect to the Project an annual certification on Form 8703 as to whether the Project continues to meet the requirements of Section 142(d) of the Code. Failure to comply with such requirement may subject the Borrower to the penalty provided in Section 6652(j) of the Code.

**Section 4. Rental Restrictions.** The Borrower represents, warrants and covenants with respect to the Project that once available for occupancy, each Unit in the Project will be rented or available for rental on a continuous basis to members of the general public (other than (a) Units for resident managers or maintenance personnel, (b) Units for Qualifying Tenants as provided for in Section 3 hereof, (c) Units which may be rented to Qualifying Tenants in accordance with any HUD-approved owner preference granted in accordance with 24 CFR Section 5.655, HUD Occupancy Handbook 4350.3, and which satisfies treasury regulations 1.103-8(b) and 1.42-9,

and (d) Units which may be rented under the Section 8 assistance program, which Units (subject to the Section 8 assistance program) shall be leased to eligible tenants in accordance with Section 8 requirements), subject, however, to the requirements of Section 3(a) hereof. Each Qualifying Tenant (as hereinafter defined) occupying a Unit in the Project shall be required to execute a written lease with a stated term of not less than 30 days nor more than one year.

**Section 5. Transfer Restrictions.** The Borrower covenants and agrees that no conveyance, transfer, assignment or any other disposition of title to any portion of the Project (a "Transfer") shall be made prior to the termination of the Rental Restrictions and Occupancy Restrictions hereunder with respect to the Project, unless the transferee pursuant to the Transfer assumes in writing (the "Assumption Agreement"), in a form reasonably acceptable to the Issuer, all of the executory duties and obligations hereunder of the Borrower with respect to such portion of the Project, including those contained in this Section 5, and agrees to cause any subsequent transferee to assume such duties and obligations in the event of a subsequent Transfer by the transferee prior to the termination of the Rental Restrictions and Occupancy Restrictions hereunder with respect to the Project. The Borrower shall deliver the Assumption Agreement to the Issuer at least 30 days prior to a proposed Transfer. This Section 5 shall not apply to any involuntary transfer pursuant to Section 1(c) hereof. This Section shall not be deemed to restrict the transfer of any membership interest in the Borrower or a transfer by foreclosure or deed in lieu of foreclosure.

#### **Section 6. Enforcement.**

(a) The Borrower shall permit all duly authorized representatives of the Issuer to inspect any books and records of the Borrower regarding the Project and the incomes of Qualifying Tenants which pertain to compliance with the provisions of this Agreement and Section 142(d) of the Code and the regulations heretofore or hereafter promulgated thereunder.

(b) In addition to the information provided for in Section 3(i) hereof, the Borrower shall submit any other information, documents or certifications reasonably requested by the Issuer, which the Issuer deems reasonably necessary to substantiate continuing compliance with the provisions of this Agreement and Section 142(d) of the Code and the regulations heretofore or hereafter promulgated thereunder.

(c) The Issuer and the Borrower each covenants that it will not take or permit to be taken any action within its control that it knows would adversely affect the exclusion of interest on the Bonds from the gross income of the owners thereof for purposes of federal income taxation pursuant to Section 103 of the Code. Moreover, each covenants to take any lawful action within its control (including amendment of this Agreement as may be necessary in the opinion of nationally recognized bond counsel selected by the Issuer) to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service from time to time pertaining to obligations issued under Section 142(d) of the Code and affecting the Project.

(d) The Borrower covenants and agrees to inform the Issuer by written notice of any violation of its obligations hereunder within five days of first discovering any such violation. If

any such violation is not corrected to the satisfaction of the Issuer within the period of time specified by either the Issuer, which shall be (i) the lesser of (A) 45 days after the effective date of any notice to or from the Borrower, or (B) 60 days from the date such violation would have been discovered by the Borrower by the exercise of reasonable diligence, or (ii) such longer period as may be necessary to cure such violation, provided bond counsel (selected by the Issuer) of nationally recognized standing in matters pertaining to the exclusion of interest on municipal bonds from gross income for purposes of federal income taxation issues an opinion that such extension will not result in the loss of such exclusion of interest on the Bonds, without further notice, the Issuer shall declare a default under this Agreement effective on the date of such declaration of default, and the Issuer shall apply to any court, state or federal, for specific performance of this Agreement or an injunction against any violation of this Agreement, or any other remedies at law or in equity or any such other actions as shall be necessary or desirable so as to correct noncompliance with this Agreement.

(e) The Borrower and the Issuer each acknowledges that the primary purposes for requiring compliance with the restrictions provided in this Agreement are to preserve the exclusion of interest on the Bonds from gross income for purposes of federal income taxation, and that the Issuer, on behalf of the owners of the Bonds, who are declared to be third-party beneficiaries of this Agreement, shall be entitled for any breach of the provisions hereof, to all remedies both at law and in equity in the event of any default hereunder.

(f) In the enforcement of this Agreement, the Issuer may rely on any certificate delivered by or on behalf of the Borrower or any tenant with respect to the Project.

(g) Nothing in this Section shall preclude the Issuer from exercising any remedies it might otherwise have, by contract, statute or otherwise, upon the occurrence of any violation hereunder.

(h) Notwithstanding anything to the contrary contained herein, the Issuer hereby agrees that any cure of any default made or tendered by one or more of the Borrower's members or Borrower's lenders shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

**Section 7. Covenants To Run With the Land.** The Borrower hereby subjects the Project, to the covenants, reservations and restrictions set forth in this Agreement. The Issuer and the Borrower hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants, reservations and restrictions running with the land to the extent permitted by law, and shall pass to and be binding upon the Borrower's successors in title to the Project throughout the term of this Agreement. Each and every contract, deed, mortgage, lease or other instrument hereafter executed covering or conveying the Project, the Units or the Site, or any portion thereof or interest therein (excluding any transferee of a limited liability company interest in the Borrower), shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed, mortgage, lease or other instrument.

**Section 8. Recording.** The Borrower shall cause this Agreement and all amendments and supplements hereto to be recorded in the conveyance and real property records of Cook



County, Illinois, and in such other places as the Issuer may reasonably request. The Borrower shall pay all fees and charges incurred in connection with any such recording.

**Section 9. Agents of the Issuer.** The Issuer shall have the right to appoint agents to carry out any of its duties and obligations hereunder, and shall, upon written request, certify in writing to the other party hereto any such agency appointment.

**Section 10. No Conflict With Other Documents.** The Borrower warrants and covenants that it has not and will not execute any other agreement with provisions inconsistent or in conflict with the provisions hereof (except documents that are subordinate to the provisions hereof), and the Borrower agrees that the requirements of this Agreement are paramount and controlling as to the rights and obligations herein set forth, which supersede any other requirements in conflict herewith.

**Section 11. Interpretation.** Any capitalized terms not defined in this Agreement shall have the same meaning as terms defined in the Bond Issuance Agreement, the Loan Agreement or Section 142(d) of the Code and the regulations heretofore or hereafter promulgated thereunder.

**Section 12. Amendment.** Subject to and any restrictions set forth in the Bond Issuance Agreement, this Agreement may be amended by the parties hereto to reflect changes in Section 142(d) of the Code, the regulations hereafter promulgated thereunder and revenue rulings promulgated thereunder, or in the interpretation thereof.

**Section 13. Severability.** The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.

**Section 14. Notices.** Any notice, demand or other communication required or permitted hereunder shall be in writing and shall be deemed to have been given if and when personally delivered and receipted for, or, if sent by private courier service or sent by overnight mail service, shall be deemed to have been given if and when received (unless the addressee refuses to accept delivery, in which case it shall be deemed to have been given when first presented to the addressee for acceptance), or on the first day after being sent by telegram, or on the third day after being deposited in United States registered or certified mail, postage prepaid. Any such notice, demand or other communication shall be given as provided for in the Bond Issuance Agreement.

**Section 15. Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Illinois, and where applicable, the laws of the United States of America.

**Section 16. Limited Liability of Borrower.** Notwithstanding any other provision or obligation stated in or implied by this Agreement to the contrary, any and all undertakings and agreements of the Borrower contained herein shall not (other than as expressly provided hereinafter in this paragraph) be deemed, interpreted or construed as the personal undertaking or agreement of, or as creating any personal liability upon, any past, present or future member of the Borrower, and no recourse (other than as expressly provided hereinafter in this paragraph) shall be had against the property of the Borrower or any past, present or future member of the

Borrower, personally or individually for the performance of any undertaking, agreement or obligation, or the payment of any money, under this Agreement or any document executed or delivered by or on behalf of the Borrower pursuant hereto or in connection herewith, or for any claim based thereon. It is expressly understood and agreed that the Issuer and the registered owners of the Bonds, and their respective successors and assigns, shall have the right to sue for specific performance of this Agreement and to otherwise seek equitable relief for the enforcement of the obligations and undertakings of the Borrower hereunder, including, without limitation, obtaining an injunction against any violation of this Agreement or the appointment of a receiver to take over and operate all or any portion of the Project in accordance with the terms of this Agreement. This Section shall survive termination of this Agreement.

[Signatures Appear on Following Page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed and sealed by their respective, duly authorized representatives, as of the day and year first above written.

**CITY OF CHICAGO**

(SEAL)

ATTEST:

By: \_\_\_\_\_  
Chief Financial Officer

\_\_\_\_\_  
City Clerk

Acknowledged and agreed to:

**TAYLOR STREET LA LLC,**  
an Illinois limited liability company

By: Roosevelt Square LLC,  
an Illinois limited liability company, its manager

By: LR ABLA LLC,  
a Delaware limited liability company, its manager

By: LR Development Company LLC,  
a Delaware limited liability company, d/b/a Related Midwest LLC, its sole  
member

By: \_\_\_\_\_  
Jacques Sandberg  
Vice President and Secretary

STATE OF ILLINOIS    )  
  ) ss:  
COUNTY OF COOK     )

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, City Clerk of the CITY OF CHICAGO, a municipal corporation and body politic and corporate duly organized and validly existing under the Constitution and laws of the State of Illinois (the "City"), known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that each executed the same for the purposes and consideration therein expressed and in the capacity therein stated, as the act and deed of said City.

GIVEN UNDER MY HAND and seal of office, this the \_\_\_\_ day of \_\_\_\_\_, 2017.

[SEAL]

\_\_\_\_\_  
Notary Public in and for the State of Illinois

My commission expires on:

\_\_\_\_\_

COUNTY OF COOK )

I, the undersigned, a Notary Public in and for the county and State aforesaid, do hereby certify that \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ of \_\_\_\_\_ Roosevelt Square Library LLC, an Illinois limited liability company (the "General Partner"), the general partner of [Borrower], an Illinois limited partnership, 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 severally acknowledged that as such officer, he signed and delivered the said instrument, pursuant to authority given by the General Partner as the free and voluntary act of such person, and as the free and voluntary act and deed of the General Partner and [Borrower] for the uses and purposes therein set forth.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

(SEAL)

Notary Public

**EXHIBIT A**  
**SITE LEGAL DESCRIPTION**

**EXHIBIT B**  
**INCOME COMPUTATION AND CERTIFICATION\***

**NOTE TO APARTMENT OWNER:** This form is designed to assist you in computing Annual Income in accordance with the method set forth in the Department of Housing and Urban Development ("HUD") Regulations (24 CFR Part 5). You should make certain that this form is at all times up to date with HUD Regulations. All capitalized terms used herein shall have the meanings set forth in the Land Use Restriction Agreement, dated as of \_\_\_\_ 1, 2017, between the City of Chicago and [TBD], an Illinois limited partnership (the "Borrower").

Re: Taylor Street Library and Apartments  
Chicago, IL

I/We, the undersigned, being first duly sworn, state that I/we have read and answered fully and truthfully each of the following questions for all persons who are to occupy the unit in the above apartment project for which application is made. Listed below are the names of all persons who intend to reside in the unit:

Name of Members of the Household	Relationship to Head of Household	Age	Social Security Number	Place of Employment
	HEAD			
	SPOUSE			

**1. Total Anticipated Income.** The total anticipated income, calculated in accordance with this paragraph 6, of all persons listed above for the 12-month period beginning the date that I/we plan to move into a unit (i.e., \_\_\_\_\_) is \$\_\_\_\_\_.

Included in the total anticipated income listed above are:

- (a) the full amount, before payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (b) the net income from operation of a business or profession or net income from real or personal property (without deducting expenditures for business expansion or amortization or capital indebtedness); an allowance for depreciation of capital assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulation; include any withdrawal of cash or assets

\* The form of Income Computation and Certification shall be conformed to any amendments made to 24 CFR Part 5, or any regulatory provisions promulgated in substitution therefor.

from the operation of a business or profession, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the above persons;

- (c) interest and dividends (see 7(C) below);
- (d) the full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump sum payment for the delayed start of a periodic payment;
- (e) payments in lieu of earnings, such as unemployment and disability compensation, workmen's compensation and severance pay;
- (f) the amount of any public welfare assistance payment; if the welfare assistance payment includes any amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:
  - (i) the amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities, plus
  - (ii) the maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities (if the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph 6(f) shall be the amount resulting from one application of the percentage);
- (g) periodic and determinable allowances, such as alimony and child support payments and regular contributions or gifts received from persons not residing in the dwelling; and
- (h) all regular pay, special pay and allowances of a member of the Armed Forces.

Excluded from such anticipated total income are:

- (a) income from employment of children (including foster children) under the age of 18 years;
- (b) payment received for the care of foster children or foster adults;
- (c) lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses;
- (d) amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- (e) income of a live-in aide;
- (f) the full amount of student financial assistance paid directly to the student or to the educational institution;
- (g) special pay to a family member serving in the Armed Forces who is exposed to hostile fire;



- (h) amounts received under training programs funded by the Department of Housing and Urban Development (“HUD”);
- (i) amounts received by a disabled person that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
- (j) amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
- (k) a resident service stipend in a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the Borrower, on a part-time basis, that enhances the quality of life in the Project, including, but not limited to, fire patrol, hall monitoring, lawn maintenance and resident initiatives coordination (no resident may receive more than one stipend during the same period of time);
- (l) compensation from state or local employment training programs in training of a family member as resident management staff, which compensation is received under employment training programs (including training programs not affiliated with a local government) with clearly defined goals and objectives, and which compensation is excluded only for the period during which the family member participates in the employment training program;
- (m) reparations payment paid by a foreign government pursuant to claims filed under the laws of that government for persons who were persecuted during the Nazi era;
- (n) earnings in excess of \$480 for each full-time student, 18 years or older, but excluding the head of household and spouse;
- (o) adoption assistance payments in excess of \$480 per adopted child;
- (p) deferred periodic payments of supplemental security income and social security benefits that are received in a lump sum payment;
- (q) amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit;
- (r) amounts paid by a state agency to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home;
- (s) temporary, nonrecurring or sporadic income (including gifts); and
- (t) amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply.

## 2. Assets.

- (a) Do the persons whose income or contributions are included in Item 6 above:

- (i) have savings, stocks, bonds, equity in real property or other form of capital investment (excluding the values of necessary items of personal property such as furniture and automobiles, equity in a housing cooperative unit or in a manufactured home in which such family resides, and interests in Indian trust land)? \_\_\_\_\_ Yes \_\_\_\_\_ No.
- (ii) have they disposed of any assets (other than at a foreclosure or bankruptcy sale) during the last two years at less than fair market value? \_\_\_\_\_ Yes \_\_\_\_\_ No.
- (b) If the answer to (i) or (ii) above is yes, does the combined total value of all such assets owned or disposed of by all such persons total more than \$5,000? \_\_\_\_\_ Yes \_\_\_\_\_ No.
- (c) If the answer to (b) above is yes, state:
- (i) the total value of all such assets: \$\_\_\_\_\_;
- (ii) the amount of income expected to be derived from such assets in the 12-month period beginning on the date of initial occupancy of the unit that you propose to rent: \$\_\_\_\_\_; and
- (iii) the amount of such income, if any, that was included in Item 6 above: \$\_\_\_\_\_.

**3. Full-time Students.**

- (a) Are all of the individuals who propose to reside in the unit full-time students? \_\_\_\_\_ Yes \_\_\_\_\_ No.

A full-time student is an individual enrolled as a full-time student (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended) during each of five calendar months during the calendar year in which occupancy of the unit begins at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance or an individual pursuing a full-time course of institutional or farm training under the supervision of an accredited agent of such an educational organization or of a state or political subdivision thereof.

- (b) If the answer to 8(a) is yes, are at least two of the proposed occupants of the unit a husband and wife entitled to file a joint federal income tax return? \_\_\_\_\_ Yes \_\_\_\_\_ No.

**4. Relationship to Project Borrower.** Neither myself nor any other occupant of the unit I/we propose to rent is the Borrower, has any family relationship to the Borrower, or owns directly or indirectly any interest in the Borrower. For purposes of this paragraph, indirect ownership by an individual shall mean ownership by a family member; ownership by a corporation, partnership, estate or trust in proportion to the ownership or beneficial interest in such corporation, partnership, estate or trust held by the individual or a family member; and ownership, direct or indirect, by a partner of the individual.

**5. Reliance.** This certificate is made with the knowledge that it will be relied upon by the Borrower to determine maximum income for eligibility to occupy the unit and is relevant to the

status under federal income tax law of the interest on obligations issued to provide financing for the apartment development for which application is being made. I/We consent to the disclosure of such information to the Issuer of such obligations, the holders of such obligations, any fiduciary acting on their behalf and any authorized agent of the Treasury Department or the Internal Revenue Service. I/We declare that all information set forth herein is true, correct and complete and based upon information I/we deem reliable, and that the statement of total anticipated income contained in paragraph 6 is reasonable and based upon such investigation as the undersigned deemed necessary.

**6. Further Assistance.** I/We will assist the Borrower in obtaining any information or documents required to verify the statements made herein, including, but not limited to, either an income verification from my/our present employer(s) or copies of federal tax returns for the immediately preceding two calendar years.

**7. Misrepresentation.** I/We acknowledge that I/we have been advised that the making of any misrepresentation or misstatement in this declaration will constitute a material breach of my/our agreement with the Borrower to lease the unit, and may entitle the Borrower to prevent or terminate my/our occupancy of the unit by institution of an action for ejection or other appropriate proceedings.

[Signatures Appear on Following Page]

I/We declare under penalty of perjury that the foregoing is true and correct.

Executed this \_\_\_\_ day of \_\_\_\_\_ in \_\_\_\_\_, Illinois.

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Applicant

[Signature of all persons over the age of 18 years listed in 2 above required.]

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of \_\_\_\_\_

(NOTARY SEAL)

Notary Public in and for the State of \_\_\_\_\_

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

FOR COMPLETION BY APARTMENT OWNER ONLY:

1. Calculation of eligible income:

- a. Enter amount entered for entire household in 6 above: \$ \_\_\_\_\_
- b. (1) if the amount entered in 7(c)(i) above is greater than \$5,000, enter the total amount entered in 7(c)(ii), subtract from that figure the amount entered in 7(c)(iii) and enter the remaining balance (\$ \_\_\_\_\_);  
(2) multiply the amount entered in 7(c)(i) times the current passbook savings rate as determined by HUD to determine what the total annual earnings on the amount in 7(c)(ii) would be if invested in passbook savings (\$ \_\_\_\_\_), subtract from that figure the amount entered in 7(c)(iii) and enter the remaining balance (\$ \_\_\_\_\_); and  
(3) enter at right the greater of the amount calculated under (1) or (2) above: \$ \_\_\_\_\_
- c. TOTAL ELIGIBLE INCOME (Line 1.a plus line 1.b(3)): \$ \_\_\_\_\_

2. The amount entered in 1.c is:

\_\_\_\_\_ Less than 80% of Median Gross Income for Area.\*\*

\_\_\_\_\_  
\*\*"Median Gross Income for the Area" means the median income for the area where the Project is located as determined by the Secretary of Housing and Urban Development under Section 8(f)(3) of the United States Housing Act of 1937, as amended, or if programs under Section 8(f) are terminated, median income determined under the method used by the Secretary prior to the termination. "Median Gross Income for the Area" shall be adjusted for family size.

\_\_\_\_\_ More than 80% of Median Gross Income for the Area.\*\*\*

3. Number of apartment unit assigned: \_\_\_\_\_  
Bedroom Size: \_\_\_\_\_ Rent: \$ \_\_\_\_\_
4. The last tenants of this apartment unit for a period of 31 consecutive days [had/did not have] aggregate anticipated annual income, as certified in the above manner upon their initial occupancy of the apartment unit, of less than 80% of Median Gross Income for the Area.
5. Method used to verify applicant(s) income:  
\_\_\_\_\_ Employer income verification.  
\_\_\_\_\_ Copies of tax returns.  
\_\_\_\_\_ Other ( \_\_\_\_\_ )

\_\_\_\_\_  
Borrower or Manager

\_\_\_\_\_  
\*\*\*See footnote 2.

## INCOME VERIFICATION

(for employed persons)

The undersigned employee has applied for a rental unit located in a project financed by the City of Chicago. Every income statement of a prospective tenant must be stringently verified. Please indicate below the employee's current annual income from wages, overtime, bonuses, commissions or any other form of compensation received on a regular basis.

Annual wages	_____
Overtime	_____
Bonuses	_____
Commissions	_____
Total current income	_____

I hereby certify that the statements above are true and complete to the best of my knowledge.

_____ Signature	_____ Date	_____ Title
--------------------	---------------	----------------

I hereby grant you permission to disclose my income to WHP Village, LLC an Illinois limited liability company, in order that it may determine my income eligibility for rental of an apartment located in one of its projects which has been financed by the City of Chicago.

_____ Signature	_____ Date
--------------------	---------------

Please send to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## INCOME VERIFICATION

(for self-employed persons)

I hereby attach copies of my individual federal and state income tax returns for the immediately preceding two calendar years and certify that the information shown in such income tax returns is true and complete to the best of my knowledge.

---

Signature

---

Date

## EXHIBIT C

### CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

The undersigned, general partner of [TBD], an Illinois limited partnership (the "Borrower"), hereby certifies as follows:

1. The undersigned has read and is thoroughly familiar with the provisions of the Land Use Restriction Agreement, dated as of \_\_\_\_\_ 1, 2017 (the "Land Use Restriction Agreement"), between the City of Chicago and the Borrower. All capitalized terms used herein shall have the meanings given in the Land Use Restriction Agreement.

2. Based on Certificates of Tenant Eligibility on file with the Borrower, as of the date of this Certificate the following number of completed Units in the Project (i) are occupied by Qualifying Tenants (as such term is defined in the Land Use Restriction Agreement), or (ii) were previously occupied by Lower-Income Tenants and have been vacant and not reoccupied except for a temporary period of no more than 31 days:

Occupied by Qualifying Tenants\*\*\*\*: \_\_\_\_\_ No. of Units

Previously occupied by Qualifying Tenants  
(vacant and not reoccupied except for a  
temporary period of no more than 31 days): \_\_\_\_\_ No. of Units

3. The total number of completed Units in the Project is \_\_\_\_\_ [Define "Units" here].

4. The total number in 2 is at least 40% of the total number in 3 above.

5. No Event of Default (as defined in the Land Use Restriction Agreement) has occurred and is subsisting under the Land Use Restriction Agreement, except as set forth in Schedule A attached hereto.

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\*\*\*\* A unit all of the occupants of which are full-time students does not qualify as a unit occupied by Qualifying Tenants, unless one or more of the occupants was entitled to file a joint tax return.



**[BORROWER],**  
an Illinois limited partnership

[Insert Signature Block]

**EXHIBIT E**

**Form of Redevelopment Agreement**

(See Attached)

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

## **TAYLOR STREET LIBRARY AND APARTMENTS PROJECT REDEVELOPMENT AGREEMENT**

This Taylor Street Library and Apartments Project Redevelopment Agreement (the "**Agreement**") is made as of this \_\_\_\_ day of \_\_\_\_\_, 2017, by and among the City of Chicago, an Illinois municipal corporation (the "**City**"), through its Department of Planning and Development ("**DPD**"), and Taylor Street LA LLC, an Illinois limited liability company ("**Developer**"), and Roosevelt Square Library LLC, a Illinois limited liability company ("**Manager**"), and [to-be-formed corporation affiliated with Developer] ("**Related Co**", and together with Developer and Manager, the "**Developer Parties**").

### **RECITALS:**

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

**B. Statutory Authority:** The City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq. (2002 State Bar Edition), as amended from time-to-time (the "**Act**"), to finance projects that eradicate blighted conditions through the use of tax increment allocation financing for redevelopment projects.

**C. City Council Authority:** To induce redevelopment under the provisions of the Act, the City Council of the City (the "**City Council**") adopted the following ordinances on November 4, 1998: (1) "An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the Roosevelt/Racine Redevelopment Project Area"; (2) "An Ordinance of the City of Chicago, Illinois Designating the Roosevelt/Racine Redevelopment Project Area as a Redevelopment Project Area

Pursuant to Tax Increment Allocation Redevelopment Act"; and (3) "An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the Roosevelt/Racine Redevelopment Project Area" (the "**Roosevelt/Racine TIF Adoption Ordinance**"). Collectively the three ordinances, as amended, are defined as the "**Roosevelt/Racine TIF Ordinances**". The Roosevelt/Racine Redevelopment Area (as defined below) is legally described on Exhibit A.

To induce certain redevelopment pursuant to the Act, the City Council adopted the following ordinances on February 5, 1998: approving and adopting a tax increment financing redevelopment project and plan for the Western/Ogden Redevelopment Project Area; designating the Western/Ogden Redevelopment Project Area as a tax increment financing district; and adopting tax increment financing for the Western/Ogden Redevelopment Project Area (the aforesaid Ordinances are collectively referred to herein as the "**Western/Ogden TIF Ordinances**", the redevelopment plan approved by the Western/Ogden TIF Ordinances is referred to herein as the "**Western/Ogden Redevelopment Plan**," the redevelopment project area created by the Western/Ogden TIF Ordinances, as amended, is referred to herein as the "**Western/Ogden Redevelopment Area**," and Increment collected from the Western/Ogden Redevelopment Area shall be known as the "**Western/Ogden Increment**").

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

The Roosevelt/Racine Redevelopment Area is either contiguous to, or is separated only by a public right of way from, the Western/Ogden Redevelopment Area.

The Western/Ogden Redevelopment Plan permits the exercise of Transfer Rights with respect to Western/Ogden Increment and the Roosevelt/Racine Redevelopment Plan permits the receipt of Western/Ogden Increment pursuant to Transfer Rights.

It is anticipated that the City may, in its discretion, exercise its Transfer Rights pursuant to the Act and the Roosevelt/Racine and Western/Ogden Redevelopment Plans to allocate and use a portion of Western/Ogden Increment in an estimated amount up to \$4,000,000 as part of and not in addition to the City Funds for the Project as defined below.

**D. The Project:** The project contemplated by this Agreement is for the construction of one mixed-use, mid-rise building containing 73 rental housing units and a library located at 1328-50 West Taylor Street (the "**Property**") in the Roosevelt/Racine Tax Increment Financing Redevelopment Project Area (the "**Roosevelt/Racine Redevelopment Area**"). The Property is approximately 89,116 square feet, and is located wholly within the Roosevelt/Racine Redevelopment Area. A legal description of the Property is stated in Exhibit B-1. In accordance with this Agreement, the 73 residential units will consist of 37 rental units for public housing residents, 29 rental units for low-income families and 7 market rate rental units, a management office, an exercise room, a laundry room, and 25 parking spaces (the "**Residential Project**"), and the library portion of the development will include approximately 15,000 square feet of space on the first floor of the building, and 9 parking spaces (the "**Library Project**"). The Residential Project and the Library Project are collectively defined as the "**Project**". A site plan for the Project (the "**Site Plan**") is Exhibit B-2. The completion of the Project

would not reasonably be anticipated to occur without the financing contemplated in this Agreement.

E. **Redevelopment Plan**: The Project will be carried out in accordance with this Agreement and the City of Chicago Roosevelt/Racine Redevelopment Project Area Tax Increment Finance Program Redevelopment Plan and Project (the "**Roosevelt/Racine Redevelopment Plan**"), and as amended from time-to-time.

F. **City Financing and Assistance**: The City agrees to use, in the amounts set forth in Section 5.04 hereof, Incremental Taxes to pay or reimburse the Developer Parties for the costs of TIF-Funded Improvements pursuant to the terms and conditions of this Agreement. In addition, the City may, in its discretion, issue tax increment allocation bonds ("**TIF Bonds**") secured by Incremental Taxes (as defined below) pursuant to a TIF bond ordinance (the "**TIF Bond Ordinance**"), at a later date as described and conditioned in Section 4.10 hereof. The proceeds of the TIF Bonds (the "**TIF Bond Proceeds**") may be used to pay for the costs of the TIF-Funded Improvements not previously paid for from Available Incremental Taxes.

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

## **AGREEMENT:**

### **SECTION 1: RECITALS**

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

### **SECTION TWO: DEFINITIONS**

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

**"Act"** has the meaning defined in the recitals.

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

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

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

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

**"Annual Compliance Report"** shall mean a signed report from the Developer to the City (a) itemizing the Developer's obligations under this 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 under the agreements evidencing the Lender Financing, if any, or any related agreements; provided, that the obligations to be covered by the Annual Compliance Report shall include the following: (1) delivery of Financial Statements and unaudited financial statements (Section 8.12); (2) delivery of updated insurance certificates, if applicable (Section 8.13); (3) delivery of evidence of payment of Non-Governmental Charges, if applicable (Section 8.14); (4) compliance with the Affordability Requirements (Section 8.19); and (5) compliance with all other executory provisions of this Agreement.

**"Architect's Certificate"** shall mean a certificate from an architect indicating that the Project is 33% complete or 67% complete, as applicable.

**"Available Incremental Taxes"** means, collectively, (a) an amount equal to 90% of the Incremental Taxes (as defined below) deposited in the Roosevelt/Racine Redevelopment Project Area Special Tax Allocation Fund (as defined below) and not pledged to the Prior TIF Obligations set forth in Exhibit M, using the year 1998 as a base year for equalized assessed valuation, and (b) up to a maximum of \$4,000,000 of Western/Ogden Increment.

**"Available Project Funds"** has the meaning defined for such phrase in Section 4.08(g).

**"BMO Harris"** means BMO Harris Bank N.A. and its successors and assigns.

**"Bonds"** has the meaning defined in Section 8.05.

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

**"CHA"** means Chicago Housing Authority.

**"CHA Units"** shall mean the 37 residential units in the Project which shall be leased to CHA Residents by the Developer.

**"CHA Residents"** shall mean tenants who qualify as being eligible to occupy "public housing" as defined in Section 3(b) of the United States Housing Act of 1937, as amended and as may hereafter be amended from time to time or any successor legislation, together with all regulations implementing the same.

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

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

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

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

**"City Funds"** means the funds described in Section 4.03(b).

**"City Group Member"** has the meaning defined in Section 8.10.

**"City Regulatory Agreement"** means that certain Regulatory Agreement entered into on the date hereof by Developer and the City.

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

**"Construction Contract"** means collectively those certain contracts substantially in the form of Exhibit E, to be entered into between Developer and the General Contractor (as defined below) providing for construction of the TIF-Funded Improvements.

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

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

**"Davis-Bacon Act"** shall mean 40 U.S.C. Section 276a et seq.

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

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

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

**"Environmental Laws"** means any and all Federal, State or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to: (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called "Superfund" or "Superlien" law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802 et seq.); (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6902 et seq.); (v) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vii) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (ix) the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code of Chicago, including but not limited to the Municipal Code of Chicago, Sections 7-28-390, 7-28-440, 11-4-1410, 11-4-1420, 11-4-1450, 11-4-1500, 11-4-1530, 11-4-1550, or 11-4-1560.

**"Equity"** means funds of the Developer Parties (other than funds derived from Lender Financing (as defined below)) available for the Project, in the amount stated in Exhibit K attached hereto, which amount may be increased under Section 4.07 (Cost Overruns).

**"Escrow Agreement"** means that certain Escrow Agreement entered into on the date hereof by the City, Developer, and lenders providing Lender Financing and other parties, in substantially the form attached as Exhibit L. The Escrow Agreement may be on the standard form used by BMO Harris or any lender providing Lender Financing.

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

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

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

**"Final Certificate"** means the Final Certificate of Completion of Construction described in Section 7.01.

**"Financial Statements"** means the financial statements of Developer regularly prepared by Developer, and including, but not limited to, a balance sheet, income statement and cash-flow statement, in accordance with generally accepted accounting principles and practices consistently applied throughout the appropriate periods, and which are delivered to the lender(s) providing Lender Financing pursuant to Developer's loan agreement(s), if any.

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

**"Governmental Charge"** has the meaning defined in Section 8.18(a).

**"Ground Lease"** means that certain ground lease of the Property entered into by and between CHA and \_\_\_\_\_.

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

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

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

**"In Balance"** has the meaning defined in Section 4.08(g).

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

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

**"Investor Member"** means \_\_\_\_\_.

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



**"Library Lease"** means a triple-net sublease of the Library Project space between the City, through its Department of Fleet and Facility Management, as sublessee, and the Developer, as sublessor, on such terms and in such form as shall be authorized by City Council.

**"Manager"** means Roosevelt Square Library LLC, an Illinois limited liability company.

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

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

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

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

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

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

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

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

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

**"Plans and Specifications"** means final construction documents containing a site plan and working drawings and specifications for the Project.

**"Prior Expenditure(s)"** has the meaning defined in Section 4.06.

**"Prior TIF Obligations"** means the City's pledge of Incremental Taxes as listed on Exhibit M hereto.

**"Procurement Program"** has the meaning defined in Section 10.03.

**"Project"** has the meaning defined in the recitals.

**"Project Budget"** means the budget stated in Exhibit C-1, showing the total cost of the Project by line item, as furnished by the Developer Parties to DPD, in accordance with Section 3.03.

**"Property"** has the meaning defined in the recitals.

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

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

**"Requisition Form"** shall mean the document, in the form attached hereto as Exhibit J, to be delivered by the Developer Parties to DPD pursuant to Section 4.04 of this Agreement.

**"Roosevelt/Racine Redevelopment Area"** has the meaning defined in the recitals.

**"Roosevelt/Racine Redevelopment Plan"** has the meaning defined in the recitals.

**"Roosevelt/Racine Redevelopment Project Area Special Tax Allocation Fund"** means the special tax allocation fund created by the City in connection with the Roosevelt/Racine Redevelopment Area into which the Incremental Taxes will be deposited.

**"Roosevelt/Racine TIF Adoption Ordinance"** has the meaning stated in the recitals.

**"Roosevelt/Racine TIF Ordinances"** has the meaning stated in the recitals.

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

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

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

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

**"Substantial Completion Certificate"** means the Certificate of Substantial Completion of Construction described in Section 7.01.

**"Survey"** means an urban plat of survey in the most recently revised form of ALTA/ACSM land title survey of the Property dated within 90 days prior to the Closing Date, reasonably acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and any updates thereof to reflect improvements to the Property as required by the City or the lender(s) providing Lender Financing, if any).

**"Term of the Agreement"** means the period of time commencing on the Closing Date and ending on November 4, 2033, such date being the date that is 35 years after the creation of the Roosevelt/Racine Redevelopment Area.

**"TIF Bonds"** has the meaning defined for such term in the recitals.

**"TIF Bond Ordinance"** has the meaning stated in the recitals.

**"TIF Bond Proceeds"** has the meaning stated in the recitals.

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

**"Title Company"** means Chicago Title Insurance Company.

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

**"Transfer Rights"** has the meaning stated in the recitals.

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

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

### **SECTION THREE: THE PROJECT**

3.01 **The Project.** The Developer Parties will: (i) begin redevelopment construction no later than ninety days after the Closing Date, and (ii) complete redevelopment construction no later than the second anniversary of the Closing Date, subject to the provisions of Section 3.04 (Change Orders) and Section 18.16 (Force Majeure).

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

3.03 **Project Budget.** Developer has furnished to DPD, and DPD has approved, a Project Budget which is Exhibit C-1, showing total costs for the Project in an amount not less than \$36,055,318. Developer hereby certifies to the City that: (a) in addition to City Funds, the Lender Financing and/or Equity described in Exhibit K shall be sufficient to pay for all Project costs; and (b) the Project Budget is true, correct and complete in all material respects as of the date hereof. Developer will promptly deliver to DPD copies of any Change Orders with respect to the Project Budget as provided in Section 3.04.

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

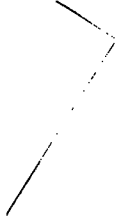
3.05 **DPD Approval.** Any approval granted by DPD under this Agreement of the Scope Drawings, Plans and Specifications and the Change Orders is for the purposes of this Agreement only, and any such approval does not affect or constitute any approval required by any other City department or under any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

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

3.07 **Progress Reports and Survey Updates.** After the Closing Date, on or before the 15th day of January, April, July and October, Developer will provide DPD with written quarterly construction progress reports detailing the status of the Project, including a revised completion date, if necessary (with any delay in completion date being considered a Change Order, requiring DPD's written approval under Section 3.04). Developer must also deliver to the City written progress reports by draw, but not less than quarterly, detailing compliance with the requirements of Section 8.08 (Prevailing Wage), Section 10.02 (City Resident Construction Worker Employment Requirement) and Section 10.03 (Developer's MBE/WBE Commitment). If the reports reflect a shortfall in compliance with the requirements of Sections 8.08, 10.02 and 10.03, then there must also be included a written plan from Developer acceptable to DPD to address and cure such shortfall. At Project completion, upon the request of DPD, Developer will provide 3 copies of an updated Survey to DPD reflecting improvements made to the Property.

3.08 **Inspecting Agent or Architect.** The independent agent or architect (other than Developer's architect, unless agreed to by the City and BMO Harris) selected by the lender providing Lender Financing will also act as the inspecting agent or architect for DPD for the Project, and any fees and expenses connected with its work or incurred by such independent agent or architect will be solely for Developer's account and will be promptly paid by Developer. The inspecting agent or architect will perform periodic inspections with respect to the Project, providing written certifications with respect thereto to DPD, prior to requests for disbursements for costs related to the Project.

3.09 **Barricades.** Developer has installed (or shall install) a construction barricade of a type and appearance satisfactory to the City and which barricade was constructed in compliance with all applicable Federal, State or City laws, ordinances, rules and regulations. DPD retains the right to approve the maintenance, appearance,



color scheme, painting, nature, type, content, and design of all barricades (other than the name and logo of the Project) installed after the date of this Agreement.

3.10 **Signs and Public Relations.** Developer will erect in a conspicuous location on the Property during the Project a sign of commercially reasonable size and style, indicating that financing has been provided by the City. The City reserves the right to include the name, photograph, artistic rendering of the Project and any other pertinent, non-confidential information regarding Developer and the Project in the City's promotional literature and communications.

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

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

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

#### SECTION FOUR: FINANCING

4.01 **Total Project Cost and Sources of Funds.** The cost of the Project is estimated to be \$36,055,318 to be applied in the manner stated in the Project Budget and funded from the sources identified in Exhibit K.

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

4.03 **City Funds.**

(a) **Uses of City Funds.** City Funds may only be used to pay directly or reimburse the Developer Parties for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs. Exhibit D sets forth, by line item, the TIF-Funded Improvements for the Project, and the maximum amount of costs that may be paid by or reimbursed from City Funds for each line item therein (subject to Section 4.03(b) and subject to revision by approved Change Orders), contingent upon receipt by the City of documentation satisfactory in form and substance to DPD evidencing such cost and its eligibility as a Redevelopment Project Cost.

(b) **Sources of City Funds.** Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Section 5 hereof, the City hereby agrees to provide up to \$7,000,000 of City funds (the "City Funds") from Available Incremental Taxes to pay for or reimburse the Developer Parties for the costs of the TIF-Funded Improvements; provided, however, that the \$7,000,000 to be derived

from Available Incremental Taxes and/or TIF Bond proceeds, if any, shall be available to pay costs related to TIF-Funded Improvements and allocated by the City for that purpose only so long as the amount of the Available Incremental Taxes deposited into the Roosevelt/Racine Redevelopment Project Area Special Tax Allocation Fund shall be sufficient to pay for such costs; and provided further, that the City shall exercise its Transfer Rights and allocate up to \$4,000,000 from the Western/Ogden Redevelopment Project Area Special Tax Allocation Fund or such amounts as may be necessary to insure the sufficiency of City Funds (from either source) as may be required to fulfill the City's repayment obligations under this Agreement. The City hereby represents to the Developer Parties that except for the Prior TIF Obligations the City has not made and will not make a pledge of Incremental Taxes to any entity, party or person that is senior or superior to the pledge of Incremental Taxes to the Developer hereunder.

The Developer Parties acknowledge and agree that the City's obligation to pay for TIF-Funded Improvements of up to a maximum of \$7,000,000 is contingent upon the fulfillment of the conditions set forth above. In the event that such conditions are not fulfilled, the amount of Equity to be contributed by the Developer Parties pursuant to Section 4.01 hereof and pursuant to the terms of Developer's Amended and Restated Operating Agreement ("Developer's Operating Agreement") shall increase proportionately. In the event that the final certified Project costs are less than the Project Budget, the City and CHA shall share the savings on a pro-rata basis, subject to the terms of the Contract for Redevelopment of ABLA Homes [reference date and parties]. The City's share of the savings may be deducted from the final installment paid to the Developer Parties after the issuance of the Final Certificate.

(c) Disbursement of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03, Section 4.08 and Section 5 hereof, the City shall disburse the City Funds as follows: (i) \$1,750,000 upon the completion of 33% of the construction of the Project as evidenced by an Architect's Certificate; (ii) \$1,750,000 upon completion of 67% of the construction of the Project as evidenced by an Architect's Certificate; (iii) \$1,750,000 upon the issuance by DPD of the Substantial Completion Certificate; and (iv) \$1,750,000 upon the issuance by DPD of the Final Certificate.

**4.04 Construction Escrow.** The City and the Developer Parties hereby agree to enter into the Escrow Agreement. All disbursements of Project funds shall be made through the funding of draw requests with respect thereto pursuant to the Escrow Agreement and this Agreement. In case of any conflict between the terms of this Agreement and the Escrow Agreement, the terms of this Agreement shall control.

**4.05 Sale or Transfer of the Property or Project by Developer.**

(a) Prior to the Date of Issuance of the Final Certificate. Subject to Sections 4.05(c) and 16.01 below, Developer must obtain the prior approval of the City for any sale or transfer of any part of the Property or the Project (other than the Library Lease) prior to the issuance of the Final Certificate. Such approval by the City will be subject to the reasonable discretion requirement stated in Section 18.19.

(b) Prior to the End of the Affordability Covenant. Subject to Sections 4.05(c) and 16.01 below, if Developer shall enter into a sale or transfer of any part of the Residential Project prior to the termination of the affordability covenant set forth in Section 8.19 which is not otherwise permitted or approved by DPD, Developer agrees to remit City Funds to the City in an amount equal to \$\_\_\_\_\_ multiplied by X, where X equals 40 minus the number of years elapsed since the date of the Final Certificate.

(c) Sales of Assets or Equity. For purposes of this Section 4.05, the phrase: "sale or transfer of any part of the Residential Project" includes any sales or transfers which are a part of the sale or transfer of all or substantially all of Developer's assets or equity. Notwithstanding anything in this Section 4.05 to the contrary, the foregoing restrictions of this Section 4.05 and the penalty due in accordance with Section 4.05(b) do not apply to: (i) Investor Member to transfer its investor member interest to any person at any time, (ii) the removal by the Investor Member of the Manager, in accordance with Developer's Operating Agreement, provided the substitute managing member is acceptable to City in its reasonable discretion, (iii) Manager's pledge of Manager's rights, title and interest in and to Developer and under Developer's Operating Agreement as collateral for Developer's obligations under any Lender Financing; (iv) transfers to any condominium association or community association; (v) any dedications or easements required by the subdivision or applicable law; (vi) any transfer of membership interests in Developer, Manager or its Affiliates, provided Manager or an Affiliate thereof must remain in control of the day to day operations of the Project and management of the Developer; and (vii) any sale or transfer of the Residential Project that is made subject to the Affordability Covenant. Developer must, however during the Term of the Agreement, notify the City not less than 60 days after any transfer is made.

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

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

**4.08 Preconditions of Disbursement.** Prior to each disbursement of City Funds hereunder, the Developer Parties shall submit documentation regarding the applicable expenditures to DPD, which shall be satisfactory to DPD in its sole discretion. Delivery by the Developer Parties to DPD 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 amount payable to (or paid to) the General Contractor and/or subcontractors who have performed work on the Project, and/or their payees;

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



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

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

(e) the Developer Parties have received no notice and have no knowledge of any liens or claim of lien either filed or threatened against the Property except for the Permitted Liens and Non-Governmental Charges in accordance with Section 8.14(b);

(f) no Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default exists or has occurred; and

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

The City shall have the right, in its discretion, to require the Developer Parties 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 in all material respects; provided, however, that nothing in this sentence shall be deemed to prevent the City from relying on such certifications by the Developer Parties. In addition, the Developer Parties shall have satisfied all other preconditions of disbursement of City Funds for each disbursement, including but not limited to requirements set forth in the Bond Ordinance, if any, TIF Bond Ordinance, if any, the Bonds, if any, the TIF Bonds, if any, the TIF Ordinances, this Agreement and/or the Escrow Agreement.

**4.09 Conditional Grant.** The City Funds being provided hereunder are being granted on a conditional basis, subject to the Developer Parties' compliance with the provisions of this Agreement. The City Funds are subject to being reimbursed as provided in Sections 4.05, 7.03 and 15.02 hereof.

**4.10 TIF Bonds.** The Commissioner of DPD may, in his or her sole discretion, recommend that the City Council approve an ordinance or ordinances authorizing the issuance of TIF Bonds in an amount which, in the opinion of the City Comptroller, is marketable under the then current market conditions. The costs of issuance of the TIF Bonds would be borne solely by the City. The Developer Parties will cooperate with the City in the issuance of the TIF Bonds, as provided in Section 8.05.

## SECTION FIVE: CONDITIONS PRECEDENT

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

5.01 **Project Budget.** Developer will have submitted to DPD, and DPD will have approved, a Project Budget in accordance with the provisions of Section 3.03.

5.02 **Scope Drawings and Plans and Specifications.** Developer will have submitted to DPD, and DPD will have approved, the Scope Drawings and Plans and Specifications as provided in Section 3.02.

5.03 **Other Governmental Approvals.** Developer will have secured or applied for all other necessary approvals and permits required by any Federal, State, or local statute, ordinance, rule or regulation to begin or continue construction of the Project, and will submit evidence thereof to DPD.

5.04 **Financing.**

(a) Developer will have furnished evidence acceptable to the City that Developer has Equity and Lender Financing, if any, at least in the amounts stated in Section 4.01 and Exhibit K, which are sufficient to complete the Project and satisfy its obligations under this Agreement.

(b) Prior to the Closing Date, Developer will deliver to DPD a copy of the Escrow Agreement.

(c) Any financing liens against the Property and Project in existence at the Closing Date will be subordinated to certain encumbrances of the City stated in Section 7.02(b) of this Agreement under a subordination agreement, in a form acceptable to the City, executed on or prior to the Closing Date, which is to be recorded, at the expense of Developer, in the Office of the Recorder of Deeds of Cook County.

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

5.05 **Acquisition and Title.** On the Closing Date, Developer will furnish the City with a copy of the Title Policy for the Property, showing Developer as the named insured. The Title Policy will be dated as of the Closing Date and will contain only those title exceptions listed as Permitted Liens on Exhibit G and will evidence the recording of this Agreement under the provisions of Section 8.17. The Title Policy will also contain the following endorsements as required by Corporation Counsel: an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (i.e., Zoning 3.1 plans and specifications) with parking, contiguity, location, access, and survey.

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

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

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

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

5.08 **Insurance.** Developer, at its own expense, will have insured the Property and the Project as required under Section 12. Prior to the Closing Date, certificates required under Section 12 evidencing the required coverages will have been delivered to DPD.

5.09 **Opinions of Developer Parties' Counsel.** On the Closing Date, the Developer Parties will furnish the City with an opinion of counsel, substantially in the form of Exhibit H, with such changes as may be required by or acceptable to Corporation Counsel.

5.10 **Evidence of Prior Expenditures.** One or more of the Developer Parties will have provided evidence satisfactory to DPD of the Prior Expenditures as provided in Section 4.06.

5.11 **Financial Statements.** Developer will have provided Financial Statements to DPD for its fiscal year 2016, and its most recently available unaudited interim Financial Statements.

5.12 **Additional Documentation.** Developer will have provided documentation to DPD, satisfactory in form and substance to DPD concerning Developer's employment profile and copies of the Ground Lease, the Library Lease, any operating leases and other tenant leases executed by Developer for leaseholds in the Project, if any.

5.13 **Environmental Audit.** The Developer Parties will have provided DPD with copies of all phase I and phase II environmental audits completed with respect to the Property, if any, and a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits. If environmental issues exist on the Property, the City will require written verification [not later than the date of the Substantial Completion Certificate] from the Illinois Environmental Protection Agency that all identified environmental issues have been or will be resolved to its satisfaction.

5.14 **Entity Documents.** Each of the Developer Parties shall provide a copy of its current Articles of Organization, with all amendments, containing certification of the Secretary of State of its state of organization; certificates of good standing from the Secretary of State of its state of organization and all other states in which it is qualified to do business; its current limited liability company agreement; a secretary's certificate in

such form and substance as the Corporation Counsel may require; and such organizational documentation as the City may request.

5.15 **Litigation.** The Developer Parties will provide to Corporation Counsel and DPD a description of all pending or threatened litigation or administrative proceedings involving any of the Developer Parties or any Affiliate of the Developer Parties (excluding the Investor Member) specifying, in each case, the amount of each claim, an estimate of probable liability, the amount of any reserves taken in connection therewith, and whether (and to what extent) such potential liability is covered by insurance.

## **SECTION SIX: AGREEMENTS WITH CONTRACTORS**

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

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

(b) Developer must submit copies of the Construction Contract to DPD as required under Section 6.02 below. Upon the written request of the City, Developer will provide photocopies of all subcontracts entered or to be entered into in connection with the Project within five (5) Business Days of the execution thereof. The Developer must ensure that the General Contractor will not (and must cause the General Contractor to ensure that the subcontractors will not) begin work on the Project (or any phase thereof) until the applicable Plans and Specifications for that phase have been approved by the City and all requisite permits have been obtained.

6.02 **Construction Contract.** Prior to the execution thereof, Developer must deliver to DPD a copy of the proposed Construction Contract with the General Contractor selected to work on the Project, for DPD's prior written approval. Following execution of such contract by Developer, the General Contractor and any other parties thereto, Developer must deliver to DPD and Corporation Counsel a copy of such contract together with any modifications, amendments or supplements thereto.

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

6.04 **Employment Opportunity.** Developer will contractually obligate and cause the General Contractor to agree and contractually obligate each subcontractor to agree to the provisions of Section 10; provided, however, that the contracting, hiring and testing requirements associated with the MBE/WBE and the City resident obligations in Section 10 shall be applied on an aggregate basis and the failure of the General Contractor to require each subcontractor to satisfy or the failure of any one subcontractor to satisfy, such obligation shall not result in a default or a termination of this Agreement or require payment of the City resident hiring shortfall amounts so long as such Section 10 obligations are satisfied on an aggregate basis.

6.05 **Other Provisions.** In addition to the requirements of this Section 6, the Construction Contract and each contract with any subcontractor must contain provisions required under Section 3.04 (Change Orders), Section 8.08 (Prevailing Wage), Section 10.01(e) (Employment Opportunity), Section 10.02 (City Resident Construction Worker Employment Requirement), Section 10.03 (Developer's MBE/WBE Commitment), Section 12 (Insurance) and Section 14.01 (Books and Records).

## **SECTION SEVEN: COMPLETION OF CONSTRUCTION**

7.01 **Certificate of Completion of Construction.** (a) Upon each of the substantial completion and the final completion of the construction of the Project in accordance with the terms of this Agreement, and upon the Developer's written request, DPD shall issue to the Developer either the Substantial Completion Certificate or the Final Certificate, as applicable. The Final Certificate shall be in recordable form (substantially in the form attached hereto as Exhibit N) certifying that the Developer has fulfilled its obligation to complete the Project in accordance with the terms of this Agreement. DPD shall respond to the Developer's written request for either certificate within forty-five (45) days by issuing either the requested certificate or a written statement detailing the ways in which the Project does not conform to this Agreement or has not been satisfactorily completed (or substantially completed in the case of the Substantial Completion Certificate), and the measures which must be taken by the Developer in order to obtain the requested certificate. The Developer may resubmit a written request for either certificate upon completion of such measures.

(b) The Substantial Completion Certificate will not be issued until the following requirements have been met:

- (i) The Developer has obtained a partial or temporary Certificate of Occupancy that covers all 73 residential units, and the library space;
- (ii) The 73 residential units, and the library space have been constructed substantially according to the Plans and Specifications;
- (iii) 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
- (iv) The Developer has entered into the Library Lease; and
- (v) Developer has incurred costs for TIF-Funded Improvements in an amount equal to or higher than \$5,250,000.

(c) The Final Certificate will not be issued until the following requirements have been met:

- (i) The City's Monitoring and Compliance unit has determined in writing that the Developer is in complete compliance with all City requirements (M/WBE, City residency and prevailing wage) as required in this Agreement;
- (ii) The Project has been completed;

- (iii) The Developer has received a Certificate of Occupancy from the City or other evidence reasonably acceptable to DPD that the Developer has complied with building permit requirements; and
- (iv) Developer has incurred costs for TIF-Funded Improvements or such amounts are included in the Project Budget in an amount equal to or higher than \$7,000,000.

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

(a) The Final Certificate relates only to the construction of the Project, and upon its issuance, the City will certify that the terms of the Agreement specifically related to Developer Parties' obligation to complete such activities have been satisfied. After the issuance of the Final 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 Final Certificate must not be construed as a waiver by the City of any of its rights and remedies under such executory terms.

(b) Those covenants specifically described at Section 8.02 (Covenant to Redevelop), Section 8.18 (Real Estate Provisions), and Section 8.19 (Affordability Requirements) as covenants that run with the land are the only covenants in this Agreement intended to be binding upon any transferee of the Property (including an assignee as described in the following sentence) throughout the Term of the Agreement, provided that upon the issuance of the Final Certificate the covenants of Section 8.02 (Covenant to Redevelop) shall be deemed fulfilled. The other executory terms of this Agreement that remain after the issuance of the Final Certificate will be binding only upon Developer or a permitted assignee of Developer who, as provided in Section 18.14 (Assignment) of this Agreement, has contracted to take an assignment of Developer's rights under this Agreement and assume Developer's liabilities hereunder.

**7.03 Failure to Complete.** If Developer Parties fail to timely complete the Project in compliance with the terms of this Agreement, and Developer has not cured any failure within 90 days of receipt of written notice thereof, then the City will have, but will not be limited to, any of the following rights and remedies:

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

(b) the right (but not the obligation), upon not less than thirty (30) days prior written notice to the Developer to complete those TIF-Funded Improvements that are public improvements and to pay for the costs of such TIF-Funded Improvements (including interest costs) out of City Funds or other City monies. If the aggregate cost of completing the TIF-Funded Improvements exceeds the amount of City Funds available under Section 4.01, the Developer Parties will reimburse the City for all reasonable costs and expenses incurred by the City in completing such TIF-Funded Improvements in excess of the available City Funds; and

(c) the right to seek reimbursement of the City Funds from the Developer Parties, provided that the City is entitled to rely on an opinion of counsel that such reimbursement will not jeopardize the tax-exempt status, if any, of any TIF Bonds.

7.04 **Notice of Expiration of Term of Agreement.** Upon the expiration of the Term of the Agreement, DPD will provide the Developer Parties, at their written request, with a written notice in recordable form stating that the Term of the Agreement has expired.

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

8.01 **General.** The Developer Parties each represents, warrants, and covenants, as of the date of this Agreement as follows. Representations, warranties and covenants denoted (Developer only) or (Manager only) shall be deemed to have been made only by Developer or Manager, as applicable; otherwise, they shall be deemed to apply to all.

(a) Developer is an Illinois limited liability company, duly organized, validly existing and in good standing (Developer only);

(b) Manager is an Illinois limited liability company, duly organized, validly existing and in good standing (Manager only);

(c) Each of the Developer Parties (i) has the right, power and authority to enter into, execute, deliver and perform this Agreement, and (ii) has been duly authorized by all necessary limited liability company or corporate action to execute, deliver and perform its obligations under this Agreement, which execution, delivery and performance does not and will not violate its certificate of organization or limited liability company agreement 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 Parties is now a party or by which it may become bound;

(d) Developer has acquired and will maintain good and merchantable leasehold title to the Property (and improvements) free and clear of all liens except for the Permitted Liens and Lender Financing, if any, and any other encumbrances approved in writing by the City (Developer only);

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

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

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

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

which would materially adversely affect its ability to comply with its obligations under this Agreement (Developer only);

(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 Developer; and there has been no material adverse change in the assets, liabilities, results of operations or financial condition of Developer since the date of Developer's most recent Financial Statements (Developer only);

(j) prior to the issuance of the Final Certificate, if it would materially adversely affect Developer's ability to perform its obligations under this Agreement, Developer will not do any of the following without the prior written consent of DPD: (1) be a party to any merger, liquidation or consolidation; (2) sell, transfer, convey, lease or otherwise dispose (directly or indirectly) of all or substantially all of its assets or any portion of the Property or the Project (including but not limited to any fixtures or equipment now or hereafter attached thereto) except in the ordinary course of business or in accordance with Section 4.05; (3) enter into any transaction outside the ordinary course of Developer's business; (4) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity (except as required in connection with Lender Financing or tax credit equity investment for the Project); or (5) enter into any transaction that would cause a material and detrimental change to Developer's financial condition; provided, however, this section shall not apply to the Library Lease or any commercial leases entered into in the ordinary course of business, it being acknowledged that Developer shall have the right to enter into commercial leases in the ordinary course of business for all or any portion of the Property on such terms as are determined by Developer (Developer only);

(k) Developer has not incurred and, prior to the issuance of the Final Certificate, will not, without the prior written consent of the Commissioner of DPD, allow the existence of any liens against the Project which are not promptly discharged or which are being legally contested (other than the Permitted Liens or Non-Governmental Charges); or incur any indebtedness secured or to be secured by the Project or any fixtures now or hereafter attached thereto, except Lender Financing (Developer only);

(l) None of the Developer Parties has made or caused to be made, directly or indirectly, any payment, gratuity or offer of employment in connection with the Agreement or any contract paid from the City treasury or under City ordinance, for services to any City agency ("**City Contract**") as an inducement for the City to enter into the Agreement or any City Contract with the Developer Parties in violation of Chapter 2-156-120 of the Municipal Code of the City, as amended; and

(m) None of the Developer Parties nor any affiliate thereof is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. For purposes of this subsection only, "affiliate" means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified person or entity, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with



whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

8.02 **Covenant to Redevelop.** Upon DPD's approval of the Scope Drawings and Plans and Specifications as provided in Section 3.02, and DPD's approval of the Project Budget as provided in Section 3.03, and Developer's receipt of all required building permits and governmental approvals, Developer will redevelop the Property in substantial compliance with this Agreement, the TIF Ordinances, the Scope Drawings, the Plans and Specifications, the Project Budget and all amendments thereto, and all Federal, State and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project and/or Developer.

The covenants set forth in this Section 8.02 will run with the land and will be binding upon any transferee of the Property (subject to the provisions of Section 7.02(b)), or a portion thereof, unless terminated in whole or in part by the City, acting through DPD, pursuant to a written instrument executed pursuant to Section 7.02 and recorded against the Property, or any portion thereof.

8.03 **Redevelopment Plan.** The Developer Parties represent that the Project is and will be in compliance with all applicable terms of the Roosevelt/Racine Redevelopment Plan, as in effect on the date of this Agreement.

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

8.05 **Other Bonds.** At the request of the City, the Developer Parties, at the City's cost and expense, will agree to any reasonable amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole and absolute discretion) TIF Bonds or other bonds ("**Bonds**") in connection with the Project or the Roosevelt/Racine Redevelopment Area, the proceeds of which are to be used to reimburse the City for expenditures made in connection with the TIF-Funded Improvements; provided, however, that any such amendments will not have a material adverse effect on the Developer Parties or the Project. The Developer Parties will 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 its preparation of an offering statement with respect thereto. None of the Developer Parties will have any liability with respect to any disclosures made in connection with any such issuance that are actionable under applicable securities laws unless such disclosures are based on factual information provided by the Developer Parties that is determined to be false and misleading.

8.06 **Employment Opportunity.**

(a) Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and, as applicable, to cause the General Contractor to contractually obligate each subcontractor to abide by the terms set forth in Section 8.08 and Section 10; provided, however, that the contracting, hiring and testing requirements associated with the MBE/WBE and City resident obligations in Section 10 shall be applied on an aggregate basis and the failure of the General Contractor to require each subcontractor to satisfy, or the failure of any one subcontractor to satisfy, such obligations shall not result in a default or a termination of the Agreement or require payment of the City resident hiring shortfall amount so long as such Section 10 obligations are satisfied on an aggregate basis. Developer will submit to DPD a plan describing its compliance program prior to the Closing Date.

(b) Developer will deliver to the City and BMO Harris written progress reports by draw, but not less than quarterly, detailing compliance with the requirements of Sections 8.08, 10.02 and 10.03 of this Agreement. If any such reports indicate a shortfall in compliance, Developer will also deliver a plan to DPD which will outline, to DPD's satisfaction, the manner in which Developer will correct any shortfall.

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

8.08 **Prevailing Wage.** The Developer covenants and agrees to pay, and to contractually obligate and cause the General Contractor to pay and to contractually cause each subcontractor to pay, the prevailing wage rate as ascertained by the federal government pursuant to the Davis-Bacon Act, to all their respective employees working on constructing the Project or otherwise completing the TIF-Funded Improvements. All such contracts will list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If federal prevailing wage rates are revised, the revised rates will apply to all such contracts. Upon the City's request, Developer will provide the City with copies of all such contracts entered into by Developer or the General Contractor to evidence compliance with this Section 8.08.

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

8.10 **No Conflict of Interest.** Under Section 5/11-74.4-4(n) of the Act, each of the Developer Parties represents, warrants and covenants that to the best of its knowledge, no member, official, or employee of the City, or of any commission or committee exercising authority over the Project, the Roosevelt/Racine Redevelopment Area or the Roosevelt/Racine Redevelopment Plan, or any consultant hired by the City or such Developer Party with respect thereto, (a "**City Group Member**") owns or controls, has owned or controlled or will own or control any interest, and no such City Group Member will represent any person, as agent or otherwise, who owns or controls,

has owned or controlled, or will own or control any interest, direct or indirect, in a Developer Party, the Property, the Project, or to such Developer Party's actual knowledge, any other property in the Roosevelt/Racine Redevelopment Area.

8.11 **Disclosure of Interest.** None of the Developer Parties' outside counsel has direct or indirect financial ownership interest in the Developer Parties, the Property, or the Project.

8.12 **Financial Statements.** Developer will obtain and provide to DPD Financial Statements for Developer's fiscal year ended 2016, and each yearly thereafter for the Term of the Agreement. In addition, if requested by DPD, Developer will submit unaudited financial statements as soon as reasonably practical following the close of each fiscal year and for such other periods as DPD may request.

8.13 **Insurance.** Solely at its own expense, Developer will comply with all provisions of Section 12 hereof.

8.14 **Non-Governmental Charges.**

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

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

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charges by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charges, prevent the imposition of a lien or remove such lien, or prevent the transfer or forfeiture of the Property (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend Developer's covenants to pay any such Non-Governmental Charges at the time and in the manner provided in this Section 8.14); or

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

8.15 **Developer Parties' Liabilities.** The Developer Parties will not enter into any transaction that would materially and adversely affect its ability to perform its obligations under this Agreement. The Developer Parties will immediately notify DPD of

any and all events or actions which may materially affect such party's ability to carry on its business operations or perform its obligations under this Agreement or any other documents and agreements related to this Agreement or the Project.

8.16 **Compliance with Laws.** To the best of the Developer Parties' knowledge, after diligent inquiry, the Property and the Project are in compliance with all applicable Federal, State and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Property and the Project.

8.17 **Recording and Filing.** The Developer Parties will cause this Agreement, certain exhibits (as specified by Corporation Counsel) and all amendments and supplements hereto to be recorded and filed on the date hereof in the conveyance and real property records of Cook County, Illinois against the Property. The Developer Parties will pay all fees and charges incurred in connection with any such recording. Upon recording, The Developer Parties will provide to the City an executed copy of this Agreement showing the date and recording number of record.

8.18 **Real Estate Provisions.**

(a) **Governmental Charges.**

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

(ii) **Right to Contest.** Developer has the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or transfer or forfeiture of the Property. No such contest or objection will be deemed or construed in any way as relieving, modifying or extending Developer's covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless Developer has given prior written notice to DPD of Developer's intent to contest or object to a Governmental Charge and, unless, at DPD's sole option:

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

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

(b) Developer's Failure To Pay Or Discharge Lien. If Developer fails to pay or contest any Governmental Charge or to obtain discharge of the same as required by this Section 8.18, Developer will advise DPD thereof in writing, at which time DPD may, but will not be obligated to, and without waiving or releasing any obligation or liability of Developer under this Agreement, in DPD's sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect thereto which DPD deems advisable. All sums so paid by DPD, if any, and any expenses, if any, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, will be promptly disbursed to DPD by Developer. Notwithstanding anything contained herein to the contrary, this paragraph must not be construed to obligate the City to pay any such Governmental Charge. Additionally, if Developer fail to pay any Governmental Charge, the City, in its sole discretion, may require Developer to submit to the City audited Financial Statements at Developer's own expense.

#### **8.19 Affordability Requirements.**

(a) Affordable Units. Of the 73 units comprising the Residential Project, 66 units (or 90% of the Residential Project's units) shall be affordable to households with AMI not greater than 60%, of which 37 units (or 50% of the Project's units) shall be CHA Units; and 7 units shall not have any affordability restrictions.

(b) CHA Units. The Developer Parties agree and covenant to the City that, prior to any foreclosure of the Property by a lender providing Lender Financing, the provisions of that certain City Regulatory Agreement executed by the Developer and the City as of the date hereof shall govern the terms of the Developer's obligation to provide affordable housing. Following foreclosure, if any, and from the date of such foreclosure through the date set forth in subparagraph (c) below, the following provisions shall govern the terms of the obligation to provide affordable housing under this Agreement:

(i) All of the CHA Units shall be operated and maintained solely as residential rental housing;

(ii) All of the CHA Units shall be available for occupancy to and be occupied solely by Low Income Families (as defined below) upon initial occupancy; and

(iii) All of the CHA Units have monthly rents not in excess of thirty percent (30%) of the maximum allowable income for a Low Income Family (with the applicable Family size for such units determined in accordance with the rules specified in Section 42(g)(2) of the Internal Revenue Code of 1986, as amended); provided, however, that for any unit occupied by a Family (as defined below) that no longer qualifies as a Low Income Family due to an increase in such Family's income since the date of its initial occupancy of such unit, the maximum monthly rent for such unit shall not exceed thirty percent (30%) of such Family's monthly income.

(iv) As used in this Section 8.19, the following terms have the following meanings:

(A) "Family" shall mean one or more individuals, whether or not related by blood or marriage; and

(B) "Low Income Families" shall mean Families whose annual income does not exceed sixty percent (60%) of the Chicago-area median income, adjusted for Family size, as such annual income and Chicago-area median income are determined from time to time by the United States Department of Housing and Urban Development, and thereafter such income limits shall apply to this definition.

(c) The covenants set forth in this Section 8.19 shall run with the land for a period of forty (40) years from the date of the Final Certificate and be binding upon any transferee.

(d) The City and the Developer Parties may enter into a separate agreement to implement the provisions of this Section 8.19;

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

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

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

8.23 **Environmental Features.** The design of the Project incorporates the following environmentally-friendly elements for which Developer shall be responsible: permeable materials driveways and parking area; water efficient plumbing fixtures; landscaped green roof areas; sealed combustion water heaters with insulated domestic hot water storage tanks and hot water recirculation piping; high performance enclosure system with Low-e glazing; high efficiency Variable Refrigerant Flow heating/air conditioning systems within the dwelling units; variable speed pumps and HVAC fans

that are tuned to respond to occupant demand; low VOC emitting material finishes (paints, flooring, sealants); construction assemblies (concrete, masonry, drywall partitions) with high levels of recycled and regionally produced content; high performance LED and CFL lighting with occupancy and daylight harvesting based controls in various areas.

8.24 **Annual Compliance Report.** Beginning with the issuance of the Final Certificate and continuing throughout the Term of the Agreement, the Developer shall submit to DPD and to BMO Harris the Annual Compliance Report within 60 days after the end of the calendar year to which the Annual Compliance Report relates.

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

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

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

9.02 **Survival of Covenants.** All warranties, representations, and covenants of the City contained in this 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 TEN: DEVELOPER PARTIES' EMPLOYMENT OBLIGATIONS**

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

(a) No Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq., Municipal Code, except as otherwise provided by said ordinance and as amended from time-to-time (the "**Human Rights Ordinance**"). Each Employer must take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of

compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, must state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

(b) Each Employer is required to make good faith efforts (i) to present opportunities for training and employment of low- and moderate-income residents of the City and preferably of the Roosevelt/Racine Redevelopment Area; and (ii) 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 Roosevelt/Racine Redevelopment Area.

(c) Each Employer will comply with all applicable Federal, State and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the City's Human Rights Ordinance and the State Human Rights Act, 775 ILCS 5/1-101 et. seq. (2002 State Bar Edition, as amended), and any subsequent amendments and regulations promulgated thereto.

(d) Each Employer, in order to demonstrate compliance with the terms of this Section, will cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of Federal, State and municipal agencies.

(e) Each Employer will include the foregoing provisions of subparagraphs (a) through (d) in every construction contract entered into in connection with the Project (other than for remediation and demolition entered into prior to the date of this Agreement), and will require inclusion of these provisions in every subcontract entered into by any subcontractors and every agreement with any Affiliate operating on the Property, so that each such provision will be binding upon each contractor, subcontractor or Affiliate, as the case may be.

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

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

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



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

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

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

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

(f) Upon 5 Business Days prior written notice, Developer, the General Contractor and each subcontractor will provide full access to their employment records related to the Construction of the Project to the Chief Procurement Officer, the Commissioner of DPD, the Superintendent of the Chicago Police Department, the Inspector General or any duly authorized representative of any of them. Developer, the General Contractor and each subcontractor will maintain all relevant personnel data and records related to the Construction of the Project for a period of at least 3 years after final acceptance of the work constituting the Project.

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

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

(i) When work at the Project is completed, in the event that the City has determined that Developer has failed to ensure the fulfillment of the requirement of this Section concerning the worker hours performed by actual residents of the City or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Section. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1 percent (0.0005) of the aggregate hard construction costs set forth in the Project Budget undertaken by Developer (and specifically excluding any tenant improvements which are not undertaken by Developer) (the product of .0005 x such aggregate hard construction costs) (as the same will be evidenced by approved contract value for the actual contracts) will be surrendered by Developer to the City in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly will result in the surrender of the

entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject Developer, the General Contractor and/or the subcontractors to prosecution. Any retainage to cover contract performance that may become due to Developer pursuant to Section 2-92-250 of the Municipal Code of Chicago may be withheld by the City pending the Chief Procurement Officer's determination as to whether Developer must surrender damages as provided in this paragraph.

(j) Nothing herein provided will be construed to be a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246," or other affirmative action required for equal opportunity under the provisions of this Agreement or related documents.

(k) Developer will cause or require the provisions of this Section 10.02 to be included in all construction contracts and subcontracts related to the Project (other than contracts for remediation and demolition entered into prior to the date of this Agreement).

**10.03 Developer's MBE/WBE Commitment.** The Developer agrees for itself and its successors and assigns, and, if necessary to meet the requirements set forth herein, shall contractually obligate the General Contractor to agree that during the Project:

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

- (1) At least 26 percent by MBEs.
- (2) At least 6 percent by WBEs.

(b) For purposes of this Section 10.03 only:

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

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

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

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

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

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

(f) Any reduction or waiver of Developer's MBE/WBE commitment as described in this Section 10.03 shall be undertaken in accordance with Sections 2-92-450 and 2-92-730, Municipal Code of Chicago, as applicable.

(g) Prior to the commencement of the Project, Developer shall be required to meet with the City's monitoring staff with regard to Developer's compliance with its obligations under this Section 10.03. The General Contractor and all major subcontractors shall be required to attend this pre-construction meeting. During said meeting, Developer shall

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

## **SECTION ELEVEN: ENVIRONMENTAL MATTERS**

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

Without limiting any other provisions hereof, Developer agrees to indemnify, defend and hold the City (except with respect to Existing Materials and any gross negligence or wanton or willful misconduct by the City) harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of Developer: (i) the presence of any Hazardous Materials on or under, or the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Materials from all or any portion of the Property, or (ii) any liens against the Property permitted or imposed by any Environmental Laws, or any actual or asserted liability or obligation of the City or Developer or any of its Affiliates under any Environmental Laws relating to the Property.

## **SECTION TWELVE: INSURANCE**

12.01. **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 the Developer Parties 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 an additional insured mortgagee for liability coverage and named as an additional insured and loss payee/mortgagee on all property coverage.

(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 an additional insured mortgagee for liability coverage and named as an additional insured and loss payee/mortgagee on all property coverage.

(d) Other Requirements: The Developer must furnish the City of Chicago, Department of Planning Services, 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 its 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 THIRTEEN: INDEMNIFICATION

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

- (i) The Developer Parties' failure to comply with any of the terms, covenants and conditions contained within this Agreement; or
- (ii) The Developer Parties' or any contractor's failure to pay General Contractors, subcontractors or materialmen in connection with the TIF-Funded Improvements or any other Project improvement; or
- (iii) the existence of any material misrepresentation or omission in this Agreement, any offering memorandum or the Roosevelt/Racine Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by the Developer Parties or any of its Affiliates or any of their respective agents, employees, contractors or persons acting under the control or at the request of the Developer Parties or any of its Affiliates; or
- (iv) the Developer Parties' failure to cure any misrepresentation in this Agreement or any other document or agreement relating hereto; or
- (v) any act or omission by the Developer Parties or any of its Affiliates relating to the Project.

provided, however, that the Developer Parties shall not have any obligation to an Indemnatee arising from the wanton or willful misconduct or gross negligence of that Indemnatee. To the extent that the preceding sentence may be unenforceable because it is violative of any law or public policy, the Developer Parties will contribute the maximum portion that it is permitted to pay and satisfy under applicable law, to the payment and satisfaction of all indemnified liabilities incurred by the Indemnitees or any of them. The provisions of the undertakings and indemnification set out in this Section 13.01 will survive the termination of this Agreement.



## SECTION FOURTEEN: MAINTAINING RECORDS/RIGHT TO INSPECT

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

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

## SECTION FIFTEEN: DEFAULT AND REMEDIES

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

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

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

(c) the making or furnishing by the Developer Parties 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 when made;

(d) except as otherwise permitted hereunder or otherwise approved in writing by the City, the creation (whether voluntary or involuntary) of, or any attempt by the Developer Parties to create, any lien or other encumbrance upon the Property or the Project, including any fixtures now or hereafter attached thereto, other than the Permitted Liens, 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 Parties or for the liquidation or reorganization of the Developer Parties, or alleging that the Developer Parties is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of the Developer Parties' 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 Parties; provided, however, that if such commencement of proceedings is involuntary, such action will not constitute an Event of Default unless such proceedings are not dismissed within 120 days after the commencement of such proceedings;

(f) the appointment of a receiver or trustee for Developer, for any substantial part of Developer's assets, or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of Developer; provided, however, that if such appointment or commencement of proceedings is involuntary, such action will not constitute an Event of Default unless such appointment is not revoked or such proceedings are not dismissed within 120 days after the commencement thereof;

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

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

(i) the dissolution of Developer; or

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

For purposes of Section 15.01(j) hereof, a natural person with a material interest in the Developer Parties is one owning in excess of thirty-three percent (33%) of such party's (or such party's ultimate parent entity's) issued and outstanding ownership shares or interest.

**15.02 Remedies.** Upon the occurrence of an uncured Event of Default, the City may terminate this Agreement and any other agreements to which the City and the Developer Parties are or shall be parties and/or suspend disbursement of City Funds. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to injunctive relief or the specific performance of the agreements contained herein. To the extent permitted by law, the City may also lien the Property. Without limiting the generality of the foregoing, with respect to Events of Defaults by the Developer Parties prior to the issuance of a Final Certificate, the City shall be entitled to seek reimbursement of City Funds from the Developer Parties.

### 15.03 Curative Period.

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

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

15.04 Right to Cure by the Investor Member and/or BMO Harris. If an uncured default occurs under this Agreement and as a result thereof, the City intends to exercise any right or remedy available to it that could result in termination of this Agreement, or the suspension, cancellation, reduction or reimbursement of City Funds disbursed hereunder, or any other remedy under this Agreement, the City shall prior to exercising such right or remedy, send notice of such intended exercise to the Investor Member and BMO Harris, and the Investor Member (including, without limitation, by exercise of management take over rights of the Owner under its operating agreement) and BMO Harris shall have the right (but not the obligation) to cure such default as follows:

(a) if a monetary default exists, the Investor Member may cause to be cured such monetary default within 90 days after the later of (and BMO Harris, except as provided in Section 15.04(h) below, and the City shall take no action during such 90 day period): (i) the expiration of the cure period, if any, granted under Section 15.03 to Developer Parties with respect to such monetary default; or (ii) receipt by the Investor Member and BMO Harris of notice of default from the City. If the Investor Member does not cause such monetary default to be cured within such 90-day time period set forth in the preceding sentence, then BMO Harris may cure such monetary default in the manner set forth in Section 15.04(c); and

(b) if a non-monetary default exists (except for a Personal Developer Default, as later defined), the Investor Member may cause to be cured such non-monetary default within 90 days after the later of (and BMO Harris, except as provided in Section 15.04(h) below, and the City shall take no action during such 90 day period): (i) the expiration of the cure period, if any, granted under Section 15.03 to Developer with respect to such non-monetary default; or (ii) receipt by the Investor Member and BMO Harris of notice of default from the City. If the Investor Member does not cause such non-monetary default to be cured within such 90-day time period set forth in the preceding sentence, then BMO Harris may cure such monetary default in the manner set forth in Section 15.04(d); and

(c) if a monetary default exists, BMO Harris may cure such monetary default within 60 days after the later of (and the non-electing party and the City shall take no action

during such 60-day period): (i) the expiration of the Investor Member's 90-day cure period; or (ii) receipt by BMO Harris of notice from the City that the Investor Member has failed to cure the default within the timeframe set forth in Section 15.04(a) above; and

(d) if a non-monetary default exists (except for a Personal Developer Default), BMO Harris may cure such non-monetary default within 90 days after the later of (and the non-electing party and the City shall take no action during such 90-day period): (i) the expiration of the Investor Member's 90-day cure period; or (ii) receipt by BMO Harris of notice from the City that the Investor Member has failed to cure the default within the timeframe set forth in Section 15.04(b) above; provided, however, if such non-monetary default is of a nature that is not subject to cure in 90 days, the cure period will be extended for the time period needed to cure such default (including any time period required by BMO Harris to take control of the Project by initiating foreclosure of its mortgage and/or appointing a receiver) and the City shall forbear from exercising its remedies hereunder so long as diligent and continuous efforts are being pursued to cure such default; and

(e)(1) If such non-monetary default would be an Event of Default set forth in Section 15.01(e), (f), (g), (i) or (j) hereof (each such default being a "Personal Developer Default"), the Investor Member or BMO Harris (as applicable and in that strict order as more fully provided in this Section 15.04(e) below and not otherwise, the "Electing Party"), may provide written notice (the "Assumption Notice") to the City and the Investor Member or BMO Harris (as applicable, the "Non-Electing Parties") within 30 days of receipt of notice from the City of such Personal Developer Default, as more fully provided in Section 15.04(e)(2) below. If notice is delivered within said 30-day period, the Electing Party shall, in accordance with Section 15.04(e)(2) below, either cure or cause to be cured such Personal Developer Default by the assignment pursuant to Section 18.14 hereof of all of the Developer Parties' rights, obligations and interests in this Agreement to the Electing Party or any other party agreed to in writing by BMO Harris and the City, which assumption shall be deemed to cure the Personal Developer Default.

(2) Upon receipt by the City and BMO Harris of an Assumption Notice from the Investor Member pursuant to subsection (e)(1) above, the cure period shall be extended for such reasonable period of time as may be necessary to complete such assignment and assumption of the Developer Parties' rights, obligations and interests in this Agreement (but in no event longer than 90 days without the written consent of the City and BMO Harris). If the Investor Member does not (i) provide such Assumption Notice within the 30-day period specified in subsection (e)(1), or (ii) identify to the City and the Non-Electing Parties any other party (which may be an affiliate of the Investor Member other than any of the Developer Parties) to assume the Developer Parties' rights, obligations and interests in this Agreement within 30 days from the date of the Assumption Notice, then BMO Harris shall have 30 days to cure such Personal Developer Default by the assignment, in accordance with the provisions of Section 18.14 hereof, of all of the Developer Parties' rights, obligations and interests in this Agreement to BMO Harris, or an affiliate thereof, or any other party agreed to in writing by BMO Harris and the City.

(f) If such Personal Developer Default is not cured by the Investor Member or BMO Harris within the timeframes set forth in Section 15.04(e), then the City shall have available all remedies set forth in this Agreement, including those in Sections 15.02.

(g) During all such times as a Personal Developer Default exists and remains uncured after the expiration of all cure periods, no payments of City Funds shall occur until such time as such Personal Developer Default is thereafter cured.

(h) The City agrees that at any time during which an Event of Default has occurred under the Lender Financing Documents, during the period that BMO Harris is diligently and continuously pursuing actions or remedies under the Lender Financing, with or without the Developer Parties, which are intended to cause substantial completion of the Project, and, as part of such actions or remedies, continues to fund or make advances to pay Project costs, the City shall likewise forbear from exercising its remedies under Section 15.02.

(i) Notwithstanding anything to the contrary contained in this Agreement, including, without limitation, the continuation of any cure periods under Section 15.03 and Section 15.04, in the event the Investor Member and BMO Harris provide a joint notice of discontinuance of actions or remedies intending to achieve substantial completion, the City may immediately commence to exercise any and all of the remedies specified in Section 15.02 above.

## SECTION SIXTEEN: MORTGAGING OF THE PROJECT

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

(a) If a mortgagee or any other party shall succeed to Developer's interest in the Property or any portion thereof by the exercise of remedies under a mortgage or deed of trust (other than an Existing Mortgage or a Permitted Mortgage) whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of Developer's interest hereunder in accordance with Section 18.14 hereof, the City may, but will not be obligated to, attorn to and recognize such party as the successor in interest to Developer for all purposes under this Agreement and, unless so recognized by the City as the successor in interest, such party will be entitled to no rights or benefits under this Agreement, but such party will be bound by those provisions of this Agreement that are covenants expressly running with the land specified in Section 7.02.

(b) If any mortgagee or any other party shall succeed to Developer's interest in the Property or any portion thereof by the exercise of remedies under an Existing Mortgage or a Permitted Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of Developer's interest hereunder in accordance with Section 18.14 hereof, then the City hereby agrees to attorn to and recognize such party as the successor in interest to Developer for all purposes under this Agreement so long as such party accepts all of the executory obligations and liabilities of a "Developer" hereunder. Notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of Developer's interest under this Agreement, such party will have no liability

under this Agreement for any Event of Default of Developer or other claim of the City against the Developer based on events which occurred prior to the time such party succeeded to the interest of Developer under this Agreement, nor shall the City have the right to record a lien against or otherwise enforce any remedies hereunder against the Project, in which case Developer will be solely responsible. If the City placed a lien on the Project pursuant to Section 15.02 hereof in connection with an Event of Default of Developer or other claim of the City against the Developer based on events which accrued prior to the time such party succeeded to the interest of the Developer under this Agreement, the City shall release such lien upon written request to do so by such succeeding mortgagee. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of Developer's interest hereunder, such party will be entitled to no rights and benefits under this Agreement, and such party will be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land specified in Section 7.02.

(c) Prior to the issuance by the City to Developer of a Final Certificate under Section 7 hereof, no New Mortgage will be executed with respect to the Property or the Project or any portion thereof without the prior written consent of the Commissioner of DPD. A feature of such consent will be that any New Mortgage will subordinate its mortgage lien to the covenants in favor of the City that run with the land. After the issuance of a Final Certificate, consent of the Commissioner of DPD is not required for any such New Mortgage.

## SECTION SEVENTEEN: NOTICES

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

If to the City:

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

With copy to:

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

If to Developer Parties:

Taylor Street LA LLC  
350 W. Hubbard Street, Suite 300  
Chicago, IL 60654  
Attn: Jacques Sandberg  
\_\_\_\_\_(Fax)

With copy to: DLA Piper  
444 W. Lake Street, Suite 900  
Chicago, IL 60606  
Attn: Rich Klawiter, Esq.  
312/236-7516 (Fax)

With a copy to: Applegate & Thorne-Thomsen, P.C.  
440 S. LaSalle, Suite 1900  
Chicago, Illinois 60605  
Attention: Kelli Harsch, Esq.  
312/421-4411 (Fax)

If to BMO Harris: BMO Harris Bank N.A.  
Community Development Lending Group  
115 S. LaSalle St., 20W  
Chicago, Illinois 60603  
Attention: Katherine Mazzocco  
\_\_\_\_\_ (Fax)

With a copy to: Albert, Whitehead, P.C.  
10 North Dearborn, Suite 600  
Chicago, Illinois 60602  
Attention: Greg Whitehead, Esq.  
312/357-6220 (Fax)

If to Investor Member:

With a copy to:

If to CHA: Chicago Housing Authority  
60 East Van Buren, 12<sup>th</sup> Floor  
Chicago, Illinois 60605  
Attn: Chief Executive Officer

With copy to: Chicago Housing Authority  
Office of the General Counsel  
60 East Van Buren, 12<sup>th</sup> Floor  
Chicago, Illinois 60605  
Attn: Chief Legal Officer

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

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

- (a) be in writing and otherwise comply with the requirements of Section 18.01 (Notices);
- (b) expressly state the particular document and section thereof relied on by the Developer Parties to request City or DPD approval;
- (c) if applicable, note in bold type that failure to respond to the Developer Parties' request for approval by a certain date will result in the requested approval being deemed to have been given by the City or DPD;
- (d) if applicable, state the outside date for the City's or DPD's response; and
- (e) be supplemented by a delivery receipt or time/date stamped notice or other documentary evidence showing the date of delivery of the Developer Parties' request.

## **SECTION EIGHTEEN: ADDITIONAL PROVISIONS**

18.01 **Amendments.** Except as provided in this Section 18.01, and except for changes or amendments that are otherwise expressly identified as being in the discretion of the Commissioner, this Agreement and the Schedules and Exhibits attached hereto may not be materially amended without the written consent of all parties. In addition to consents and discretion expressly identified herein, the Commissioner, in his or her sole discretion, may amend or otherwise revise: (a) any exhibits containing legal descriptions in order to correct a surveyor's, scrivener's or clerical error in such a legal description, or to reflect any new subdivision of property index numbers, provided that such correction does not have a material effect on any portion of the Project; and (b) Exhibit B-2 to adjust unit locations and types; (c) Exhibits C-1 and C-2 in connection with updated budgets and/or the approval of Change Orders resulting in changes in the Project Budget in accordance with Section 3.05; (d) Exhibit D to adjust allocations between line items or to add new line items permitted under the Plan; (e) Exhibit K to reflect the terms of the final project financing, so long as such financing is not materially inconsistent with that contemplated hereunder; and (f) Exhibit G to correct inadvertent omissions or permit other minor title encumbrances not in the nature of a lien. Amendments required in clauses (b), (c) and (e) shall also require the Developer Parties' consent. The City in its sole discretion, may amend, modify or supplement the Roosevelt/Racine Redevelopment Plan. For purposes of this Agreement, the Developer Parties is only obligated to comply with the Roosevelt/Racine Redevelopment Plan as in effect on the date of this Agreement.

18.02 **Complete Agreement, Construction, Modification.** This Agreement, including any exhibits and the other agreements, documents and instruments referred to herein or contemplated hereby, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous negotiations, commitments and writings with respect to such subject matter.

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



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

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

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

18.07 **Parties in Interest/No Third Party Beneficiaries.** The terms and provisions of this Agreement are binding upon and inure to the benefit of, and are enforceable by, the respective successors and permitted assigns of the parties hereto. This Agreement will not run to the benefit of, or be enforceable by, any person or entity other than a party to this Agreement and its successors and permitted assigns. This Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right. Nothing contained in this Agreement, nor any act of the City or the Developer Parties, will be deemed or construed by any of the parties hereto or by third persons, to create any relationship of third party beneficiary, principal, agent, limited or general partnership, joint venture, or any association or relationship involving the City or the Developer Parties.

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

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

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

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

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

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

18.14 **Assignment.** Subject to Section 4.05, prior to the issuance by the City to the Developer Parties of the Final Certificate, the Developer Parties may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City; provided, however, that the Developer Parties may collaterally assign their interests in this Agreement to any of its lenders identified to the City as of the Closing Date if any such lenders require such collateral assignment. Any successor in interest to the Developer Parties under this Agreement will certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to Section 8.25 (Survival of Covenants) hereof, for the Term of the Agreement. The Developer Parties hereby consents to the City's transfer, assignment or other disposal of this Agreement at any time in whole or in part.

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

18.16 **Force Majeure.** None of the City and the Developer Parties nor any successor in interest to any of them will be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, war, terrorism, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder. Such force majeure events shall also include the City's failure to complete or accept the public improvements within the Property (including the Library Project space) which, at the Closing Date, the City has agreed to undertake within a construction schedule mutually acceptable to the City and the Developer Parties. The individual or entity relying on this section with respect to any such delay will, upon the occurrence of the event causing such delay, immediately give written notice to the other parties to this Agreement. The individual or entity relying on this section with respect to any such delay may rely on this section only to the extent of the actual number of days of delay effected by any such events described above.

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

18.18 **Business Economic Support Act.** Under the Business Economic Support Act (30 ILCS 760/1 et seq. 2002 State Bar Edition, as amended), if Developer is

required to provide notice under the WARN Act, Developer will, in addition to the notice required under the WARN Act, provide at the same time a copy of the WARN Act notice to the Governor of the State, the Speaker and Minority Leader of the House of Representatives of the State, the President and Minority Leader of the Senate of State, and the Mayor of each municipality where Developer has locations in the State. Failure by Developer to provide such notice as described above may result in the termination of all or a part of the payment or reimbursement obligations of the City set forth herein.

**18.19 Approval.** Wherever this Agreement provides for the approval or consent of the City, DPD or the Commissioner, or any matter is to be to the City's, DPD'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, DPD 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 DPD in making all approvals, consents and determinations of satisfaction, granting the Final Certificate or otherwise administering this Agreement for the City.

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

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

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

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

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

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

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

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

**CITY OF CHICAGO**

By: \_\_\_\_\_  
David L. Reifman, Commissioner,  
Department of Planning and Development

**TAYLOR STREET LA LLC**, an Illinois limited liability company

By: Roosevelt Square Library LLC, its managing member

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

**ROOSEVELT SQUARE LIBRARY LLC**, an Illinois limited liability company

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

**[RELATED CO]**, a \_\_\_\_\_

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

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 David L. Reifman, personally known to me to be Commissioner of the Department of Planning and Development of the City of Chicago (the "City"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument pursuant to the authority given to him/her by the City, as his/her free and voluntary act of the City, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2017.

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

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

STATE OF ILLINOIS    )  
                                  ) ss  
COUNTY OF COOK    )

I, the undersigned, a Notary Public in and for the county and State aforesaid, do hereby certify that \_\_\_\_\_ personally known to me to be the \_\_\_\_\_ of \_\_\_\_\_, an Illinois limited liability company, a member of \_\_\_\_\_, LLC, an Illinois limited liability company ("Manager"), the managing member of \_\_\_\_\_, LLC, an Illinois limited liability company (the "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 severally acknowledged that as such officer, he signed and delivered the said instrument, pursuant to authority given by the members of \_\_\_\_\_, on behalf of the Manager, as the free and voluntary act of such person, and as the free and voluntary act and deed of the Developer, for the uses and purposes therein set forth.

Given under my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2017.

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

(SEAL)

**TAYLOR STREET LIBRARY AND APARTMENTS PROJECT  
REDEVELOPMENT AGREEMENT**

**LIST OF EXHIBITS**

Exhibit A	Legal Description of the Roosevelt/Racine Redevelopment Area
Exhibit B-1	*Legal Description of the Property
Exhibit B-2	Site Plan for the Project
Exhibit C-1	*Project Budget
Exhibit C-2	*Construction (MBE/WBE) Budget
Exhibit D	*TIF-Funded Improvements
Exhibit E	Construction Contract
Exhibit F	Approved Prior Expenditures
Exhibit G	Permitted Liens
Exhibit H	Opinion of Counsel for the Developer Parties
Exhibit I	Form of Payment and Performance Bond
Exhibit J	Requisition Form
Exhibit K	Lender Financing
Exhibit L	Escrow Agreement
Exhibit M	Prior TIF Obligations
Exhibit N	Form of Final Certificate of Completion

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



**TAYLOR STREET LIBRARY AND APARTMENTS PROJECT  
REDEVELOPMENT AGREEMENT**

**EXHIBIT A**

**LEGAL DESCRIPTION OF ROOSEVELT/RACINE REDEVELOPMENT AREA**

Not attached for ordinance.

**TAYLOR STREET LIBRARY AND APARTMENTS PROJECT  
REDEVELOPMENT AGREEMENT**

**EXHIBIT B-1**

**LEGAL DESCRIPTION OF PROPERTY**

[Legal description to follow]

**PIN # 17-17-322-009-0000**

**COMMONLY KNOWN AS: 1328-50 West Taylor Street**

**TAYLOR STREET LIBRARY AND APARTMENTS PROJECT  
REDEVELOPMENT AGREEMENT**

**EXHIBIT B-2**

**SITE PLAN**

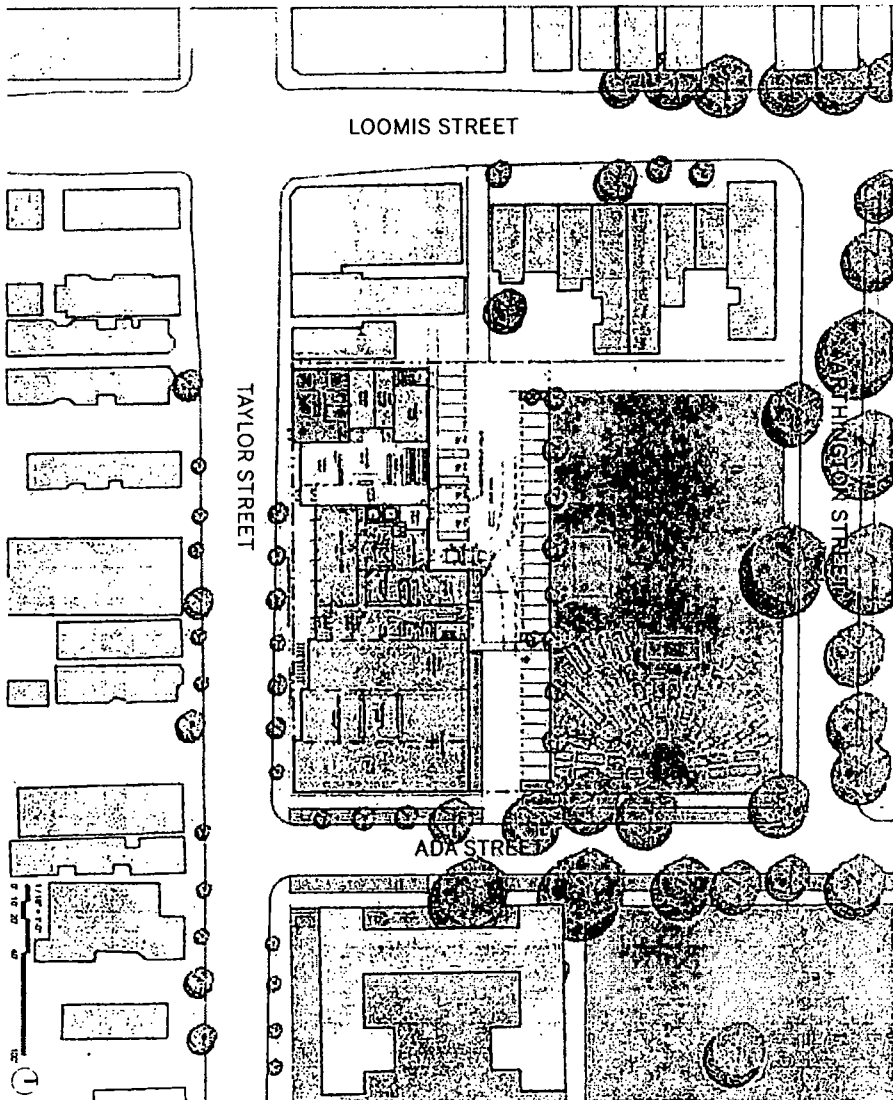
See attached.

# SITE PLAN

APPROXIMATE SITE AREA

37742 SF

CHICAGO HOUSING AUTHORITY AND CHICAGO PUBLIC LIBRARY - SITE 3  
SKIDMORE, OWINGS & MERRILL LLP



# TAYLOR STREET LIBRARY AND APARTMENTS PROJECT REDEVELOPMENT AGREEMENT

## EXHIBIT C-1 PROJECT BUDGET

### **HARD COSTS**

Residential Subtotal	16,397,600
Community Room Subtotal	731,142
Library Subtotal	6,295,134
<b>Total Trade Costs</b>	<b>23,423,877</b>
General Conditions	1,405,433
Overhead	468,478
Profit	1,405,433
<b>Total Hard Costs</b>	<b>26,703,220</b>
Contingency	1,335,161
<b>TOTAL HARD COSTS</b>	<b>28,038,381</b>

### **SOFT COSTS**

Transfer Taxes	36,750
Lenders Policy	13,650
Owners Policy	3,750
GAP	1,000
Fees / Endorsements	10,000
Construction Escrow Setup Fee	5,000
Construction Escrow Draw Fees	5,000
Recording/Filing Fee Reserve	250
Foundation Permit	2,852
Foundation Zoning Review Fee	2,500
Building Permit	46,967
Building Zoning Review Fee	2,500
PD Part II	43,488
Stormwater	3,000
OUC Review Fee	50
Tree Removal Fees	20,000
House Number Fee	150
Grants of Privilege	50
Structural Peer Review Fee	4,200
Utility Fees	100,000
USGBC	10,000
Expediter	24,500
Miscellaneous	5,000
Appraisal	15,000
Market Study	15,000

Architecture and Structural	1,152,900
Nia Interiors	275,000
MEP Engineer	345,000
Landscape Engineer	44,760
Civil Engineer	27,900
Audio Visual	25,350
IT Infrastructure	28,945
Security	29,890
Lighting Design	47,478
Vertical Transportation	15,250
Acoustics	30,900
Graphics and Signage	45,000
Accessibility	35,000
A&E Reimbursable	31,551
Design Contingency	105,169
Site Remediation + Draft NFR	50,000
Phase I	5,000
Geotech	32,000
Survey	15,000
Miscellaneous Owner Testing	120,000
Traffic Consultant and LEED Consultant	97,000
Accounting	25,000
Borrower's Counsel	190,000
TIF Counsel	25,000
Zoning	40,000
Bond Counsel	75,000
Lender Counsel	87,500
Construction Agreements	20,000
CHA Legal	112,000
Organization Fee	20,000
Renderings	40,000
Community Engagement / PR	10,000
Miscellaneous	10,000
Lender Construction Monitor	12,000
Builder's Risk Insurance	134,000
Soft Cost Contingency	374,061
Startup Costs / Deficit	73,000
Insurance & RET Escrow	56,000
Replacement Reserve	25,550
Operating Reserve	279,276
ACC Reserve	65,675
Total Developer Fee	2,193,110
Total LIHTC Fees	112,160
DTC Reservation Fee	40,000
Bond Administrative Fee	31,500
Bond Issuer Fee	315,000
Bond Legal Reserve	21,000
Construction Loan Application Fee	25,000

Origination Fee	100,000
Conversion Fee	15,000
Senior Loan Interest Reserve	550,000
<b>TOTAL DEVELOPMENT COSTS</b>	<b>\$36,055,318</b>

**TAYLOR STREET LIBRARY AND APARTMENTS PROJECT  
REDEVELOPMENT AGREEMENT**

**EXHIBIT C-2**

**CONSTRUCTION (MBE/WBE) BUDGET**

Total Hard Construction Costs	\$26,703,220
Related Soft Costs	
Architecture	1,152,900
MEP Engineers	<u>345,000</u>
<b>Total</b>	<b>\$ 28,201,120</b>

**26% of Hard Costs and Related Soft Costs = \$7,332,291 (MBE)**

**6% of Hard Costs and Related Soft Costs = \$1,692,067 (WBE)**

The above MBE/WBE dollar values are an estimate. If the actual cost of the above applicable MBE/WBE activities increase, the associated MBE/WBE dollar values will increase accordingly.



**TAYLOR STREET LIBRARY AND APARTMENTS PROJECT  
REDEVELOPMENT AGREEMENT**

**EXHIBIT D**

**TIF-FUNDED IMPROVEMENTS**

Construction Costs of Public Improvement (Library)	\$7,176,453
Hard Cost Contingency	358,823*
<b>Total</b>	<b>\$7,535,276**</b>

\*To the extent that the allowable contingency for library hard construction costs is used, it is TIF-Eligible

\*\*The maximum amount of TIF Funds provided to the Developer shall not exceed \$7,000,000.

**TAYLOR STREET LIBRARY AND APARTMENTS PROJECT  
REDEVELOPMENT AGREEMENT**

**EXHIBIT E**

**CONSTRUCTION CONTRACT**

Not attached for ordinance.

**TAYLOR STREET LIBRARY AND APARTMENTS PROJECT  
REDEVELOPMENT AGREEMENT**

**EXHIBIT F**

**APPROVED PRIOR EXPENDITURES**

Not attached for ordinance.

**TAYLOR STREET LIBRARY AND APARTMENTS PROJECT  
REDEVELOPMENT AGREEMENT**

**EXHIBIT G**

**PERMITTED LIENS**

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

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

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

NONE.

**TAYLOR STREET LIBRARY AND APARTMENTS PROJECT  
REDEVELOPMENT AGREEMENT**

**EXHIBIT H**

**OPINION OF COUNSEL FOR DEVELOPER PARTIES**

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

\_\_\_\_\_, 2017  
City of Chicago  
City Hall, Room 600  
121 North LaSalle Street  
Chicago, IL 60602

ATTENTION: Corporation Counsel

Ladies and Gentlemen:

We have acted as counsel to Taylor Street LA LLC, an Illinois limited liability company (the "Developer") and Roosevelt Square Library LLC, an Illinois limited liability company (the "Manager"), in connection with the construction of certain improvements on \_\_\_\_\_ located in the Roosevelt/Racine 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) Taylor Street Library and Apartments Project Redevelopment Agreement (the "Agreement") of even date herewith, executed by Developer and the City of Chicago (the "City"); and

(b) all other agreements, instruments and documents executed in connection with the foregoing.

In addition to the foregoing, we have examined

(a) the original or certified, conformed or photostatic copies of Developer's and Manager's (i) Certificate of Organization, as amended to date, (ii) Amended and Restated Agreement of Limited Liability Company, (iii) qualifications to do business and certificates of good standing in all states in which Developer is qualified to do business, and (iv) records of all corporate proceedings relating to the Project; and

(b) such other documents, records and legal matters as we have deemed necessary or relevant for purposes of issuing the opinions hereinafter expressed.

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

Based on the foregoing, it is our opinion that:

1. Each of Developer and Manager is a limited liability company duly organized, validly existing and in good standing under the laws of its state of organization, has

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

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

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

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

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

6. To the best of our knowledge after diligent inquiry, no judgments are outstanding against Developer, nor is there now pending or threatened, any litigation, contested claim or governmental proceeding by or against Developer or affecting Developer or its property, or seeking to restrain or enjoin the performance by Developer of the Agreement or the transactions contemplated by the Agreement, or contesting the validity thereof. To the best of

our knowledge after diligent inquiry, Developer is not in default with respect to any order, writ, injunction or decree of any court, government or regulatory authority or in default in any respect under any law, order, regulation or demand of any governmental agency or instrumentality, a default under which would have a material adverse effect on Developer or its business.

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

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

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

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

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

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

This opinion is issued at Developer's and Manager'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: \_\_\_\_\_

**TAYLOR STREET LIBRARY AND APARTMENTS PROJECT  
REDEVELOPMENT AGREEMENT**

**EXHIBIT I**

**PAYMENT AND PERFORMANCE BOND**

Not attached for ordinance.



**TAYLOR STREET LIBRARY AND APARTMENTS PROJECT  
REDEVELOPMENT AGREEMENT**

**EXHIBIT J**

**REQUISITION FORM**

STATE OF ILLINOIS   )  
  ) SS  
COUNTY OF COOK    )

The affiant, \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_, a  
\_\_\_\_\_ (the "Developer"), hereby certifies that with respect to that  
certain \_\_\_\_\_ Redevelopment Agreement between the Developer and the City  
of Chicago dated \_\_\_\_\_, \_\_\_\_\_ (the "Agreement"):

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

B. This paragraph B sets forth and is a true and complete statement of all costs of  
TIF-Funded Improvements for the Project 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 have 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 Planning and Development

**TAYLOR STREET LIBRARY AND APARTMENTS PROJECT  
REDEVELOPMENT AGREEMENT**

**EXHIBIT K  
LENDER FINANCING**

**1. The Multi-Family Housing Revenue Bonds (Taylor Street Library and Apartments Project), Series 2017 (the "Bonds")**

Amount: Not to exceed \$26,000,000

Term: Not to exceed three (3) years.

Interest: As set forth in the in the Bond Issuance Agreement and in the Notification of Sale.

Security: The Bonds will be secured by a pledge of cash and/or securities collateral in an adjusted amount not to exceed the amount of the CHA Loan and by a construction mortgage from the Borrower in favor of the Bondholder with a term of 30 months commencing with conversion (the "**Bond Mortgage**"), as well as certain capital contributions to be made to the Borrower by its investor member, pursuant to the terms of the Bond Issuance Agreement. The Bond Mortgage will grant the holder of the Bonds secured thereby a mortgage on the leasehold estate in the Property and the Project that is senior in position subject to the terms of the CHA Regulatory and Operating Agreement. The Bond Mortgage may be refinanced for a term not to exceed 40 years, as acceptable to the DPD Authorized Officer.

**2. Low-Income Housing Tax Credit ("LIHTC") Proceeds**

Amount: Approximately \$9,948,000, or such amount as may be acceptable to the DPD Authorized Officer, all or a portion of which may be paid in on a delayed basis, and all or a portion of which will be applied to the payment of a portion of the Bonds upon the completion of construction of the Project.

Source: To be derived from the syndication of the LIHTCs generated by the Bonds.

**3. CHA Loan**

Amount: Not to exceed amount of approximately \$15,800,000, or such amount as may be acceptable to the DPD Authorized Officer, all or a portion of which will be applied to the payment of a portion of the Bonds.

Term: Not to exceed 42 years.

Source: CHA or another entity acceptable to the DPD Authorized Officer.

Interest: Zero percent per annum or such interest rate as may be acceptable to the DPD Authorized Officer.

Security: Mortgage on the leasehold estate in the Property and the Project, junior to the Bond Mortgage.

#### **4. CHA Donation Tax Credit Loan**

Amount: Approximately \$1,215,521, or such amount as may be acceptable to the DPD Authorized Officer.

Term: Not to exceed 42 years.

Source: Derived from the sale of the state donation tax credits issued by the City, or another source acceptable to the DPD Authorized Officer.

Interest: Zero percent per annum or such interest rate as may be acceptable to the DPD Authorized Officer.

Security: Mortgage on the leasehold estate in the Property and the Project, junior to the Bond Mortgage.

#### **5. Developer Loan**

Amount: Approximately \$400,000, or such amount as may be acceptable to the DPD Authorized Officer.

Term: Not to exceed 42 years.

Source: Taylor Street LA LLC, derived from proceeds of loan and/or grant funds in connection with the Project, or another source acceptable to the DPD Authorized Officer

Interest: Zero percent per annum or such interest rate as may be acceptable to the DPD Authorized Officer

Security: Mortgage on the leasehold estate in the Property and the Project, junior to the Bond Mortgage

#### **6. Seller Loan**

Amount: Such amount as may be acceptable to the DPD Authorized Officer, not to exceed the appraised value of the leasehold interest in the Property.

Term: Not to exceed 42 years.

Source: Not-for-profit organization that obtains leasehold interest in the Property from CHA.

Interest: Long Term Applicable Federal rate as of the Closing Date, or such interest rate as may be acceptable to the DPD Authorized Officer

Security: Mortgage on the leasehold estate in the Property and the Project, junior to the Bond Mortgage.

## **7. TIF Funds**

Amount: Approximately \$7,000,000, or such amount as may be acceptable to the DPD Authorized Officer.

Term: Not to exceed 42 years.

Source: Related Co, or another source acceptable to the DPD Authorized Officer.

Interest: Zero percent per annum, or such interest rate as may be acceptable to the DPD Authorized Officer.

Security: Mortgage on the leasehold estate in the Property and the Project, junior to the Bond Mortgage.

## **8. MANAGING MEMBER CAPITAL CONTRIBUTION**

Amount: \$100.

**TAYLOR STREET LIBRARY AND APARTMENTS PROJECT  
REDEVELOPMENT AGREEMENT**

**EXHIBIT L  
ESCROW AGREEMENT**

Not attached for ordinance.

**TAYLOR STREET LIBRARY AND APARTMENTS PROJECT  
REDEVELOPMENT AGREEMENT**

**EXHIBIT M  
PRIOR TIF OBLIGATIONS**

Not attached for ordinance.

TAYLOR STREET LIBRARY AND APARTMENTS PROJECT  
REDEVELOPMENT AGREEMENT

EXHIBIT N  
FORM OF CERTIFICATE OF COMPLETION

[leave blank for Recorder's Office use]

\_\_\_\_\_  
CERTIFICATE OF COMPLETION

\_\_\_\_\_ REDEVELOPMENT AGREEMENT

PURSUANT TO Section 7.01 of that certain \_\_\_\_\_ Redevelopment Agreement entered into as of \_\_\_\_\_ (and recorded as document # \_\_\_\_\_ with the Cook County Recorder), the City hereby certifies as follows:

1. Completion of the Project. The Developer has fulfilled its obligation to complete the Project (as defined in the Agreement) located on the property legally described on Exhibit A hereto, in accordance with the terms of the Agreement.
2. Other provisions of Agreement; no waiver. Except with respect to the terms of the Agreement specifically related to the Developer's obligation to complete the Project, which the City hereby certifies has been satisfied: (a) all executory terms and conditions of the Agreement and all representations and covenants contained therein remain in full force and effect; and (b) the issuance of this certificate shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms.



IN WITNESS WHEREOF, the City has caused this Certificate of Completion to be executed as of this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

CITY OF CHICAGO, by and through its Department of Planning and Development

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

Title:

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 \_\_\_\_\_ Commissioner of the Department of Planning and Development of the City of Chicago (the "City"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument pursuant to the authority given to him/her by the City, as his/her free and voluntary act of the City, for the uses and purposes therein set forth.

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

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

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