



# City of Chicago



O2020-5720

Office of the City Clerk

## Document Tracking Sheet

<b>Meeting Date:</b>	11/16/2020
<b>Sponsor(s):</b>	Lightfoot (Mayor)
<b>Type:</b>	Ordinance
<b>Title:</b>	Redevelopment and subordination agreements with Greater Auburn-Gresham Development Corp and Greater Auburn-Gresham Support Corp, supported by Tax Increment Financing (TIF), and master lease for office space and build-outs at 839-845 W 79th Street
<b>Committee(s) Assignment:</b>	Committee on Finance

## **ORDINANCE**

**WHEREAS**, pursuant to an ordinance adopted by the City Council ("City Council") of the City of Chicago (the "City") on July 8, 1998 and published at pages 72439 to 72494 of the Journal of the Proceedings of the City Council (the "Journal") of such date, a certain redevelopment plan and project (the "Plan") for the 79<sup>th</sup> Street Corridor Redevelopment Project Area (the "Area") was approved pursuant to the Illinois Tax Increment Allocation Redevelopment Act, as amended (65 ILCS 5/11-74.4-1 et seq.) (the "Act"); and

**WHEREAS**, pursuant to an ordinance adopted by the City Council on July 8, 1998 and published at pages 72495 to 72502 of the Journal of such date, the Area was designated as a redevelopment project area pursuant to the Act; and

**WHEREAS**, pursuant to an ordinance (the "TIF Ordinance") adopted by the City Council on July 8, 1998 and published at pages 72503 to 72510 of the Journal of such date, tax increment allocation financing was adopted pursuant to the Act as a means of financing certain Area redevelopment project costs (as defined in the Act) incurred pursuant to the Plan; and

**WHEREAS**, GAGDC Support Corporation, an Illinois not-for-profit corporation ("QALICB") has acquired an approximately 50,705 square foot facility (the "Site") located within the Area; and

**WHEREAS**, Greater Auburn-Gresham Development Corporation, an Illinois not-for-profit corporation ("GAGDC") intends to enter into a master lease with QALICB at the Site and;

**WHEREAS**, GAGDC and QALICB (collectively, the "Developer") shall rehabilitate a portion of the Site for office space for GAGDC and will lease the remaining space to tenants for community development, workforce development and health/wellness related uses (the "Project"); and

**WHEREAS**, the Developer has proposed to undertake the redevelopment of the Site in accordance with the Plan and pursuant to the terms and conditions of a proposed redevelopment agreement to be executed by the Developer and the City, including but not limited to rehabilitation of the facilities and to be financed in part by Incremental Taxes from the Area; and

**WHEREAS**, pursuant to Resolution 20-CDC-11 adopted by the Community Development Commission of the City of Chicago (the "Commission") on September 8, 2020, the Commission recommended that the Developer be designated as the developer for the Project and that City's Department of Planning and Development ("DPD") be authorized to negotiate, execute and deliver on behalf of the City a redevelopment agreement with the Developer for the Project; now therefore,

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

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

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

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

SECTION 4. If any provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

SECTION 5. All ordinances, resolutions, motions or orders in conflict with this ordinance are hereby repealed to the extent of such conflict.

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

Attachment:

Exhibit A: Redevelopment Agreement

This agreement was prepared by and  
after recording return to:  
Charles E. Rodgers, Jr., Esq.  
City of Chicago Department of Law  
121 North LaSalle Street, Room 600  
Chicago, IL 60602

**GREATER AUBURN-GRESHAM DEVELOPMENT CORPORATION**  
**REDEVELOPMENT AGREEMENT**

This Greater Auburn-Gresham Development Corporation Redevelopment Agreement (this "Agreement") is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("DPD"), and Greater Auburn-Gresham Development Corporation, an Illinois not-for-profit corporation ("GAGDC") and GAGDC Support Corporation, an Illinois not-for-profit corporation ("QALICB") (GAGDC and QALICB are referred to herein collectively, as the "Developer").

**RECITALS**

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

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

C. City Council Authority: To induce redevelopment pursuant to the Act, the City Council of the City (the "City Council") adopted the following ordinances on July 8, 1998, (1) "An

Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the 79<sup>th</sup> Street Corridor Redevelopment Project Area" (the "Plan Adoption Ordinance"); (2) "An Ordinance of the City of Chicago, Illinois Designating the 79<sup>th</sup> Street Corridor Redevelopment Project Area as a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act"; and (3) "An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the 79<sup>th</sup> Street Corridor Redevelopment Project Area" (the "TIF Adoption Ordinance") (items(1)-(3) collectively referred to herein as the "TIF Ordinances"). The redevelopment project area referred to above (the "Redevelopment Area") is legally described in Exhibit A hereto.

D. The Project: QALICB has acquired (the "Acquisition") certain property located within the Redevelopment Area at 839-845 W. 79<sup>th</sup> Street Chicago, Illinois 60620 and legally described on Exhibit B hereto (the "Property"), and, within the time frames set forth in Section 3.01 hereof, shall commence and complete rehabilitation of (i) the core and shell of an approximately 50,705 square foot office building and wellness center (the "Facility") thereon, (ii) the build out of (a) approximately 12,500 square feet of the Facility for use by GAGDC (the "Developer Space"), (b) approximately 11,750 square feet for use by UI Health (as defined below) (the "UI Health Space), (c) approximately 1,000 square feet for use by Broadway Pharmacy (as defined below) (the "Pharmacy Space") and (d) approximately 25,450 square feet for use by other tenants for community development, workforce development and wellness related uses (the "Additional Space"). The core and shell of the Facility and the buildout of the Developer Space, UI Health Space, Pharmacy Space and the Additional Space (including but not limited to those TIF-Funded Improvements as defined below and set forth on Exhibit C) are collectively referred to herein as the "Project." The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

E. Redevelopment Plan: The Project will be carried out in accordance with this Agreement and the City of Chicago 79<sup>th</sup> Street Corridor Redevelopment Project Area Tax Increment Financing Plan (the "Redevelopment Plan") included in the Plan Adoption Ordinance and published at pages 72439-72494 of the Journal of the Proceedings of the City Council.

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

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

## SECTION 1. RECITALS, HEADINGS AND EXHIBITS

The foregoing recitals are hereby incorporated into this Agreement by reference. The paragraph and section headings contained in this Agreement, including without limitation those set forth in the following table of contents, are for convenience only and are not intended to limit, vary, define or expand the content thereof. Developer agrees to comply with the requirements set forth in the following exhibits which are attached to and made a part of this Agreement. All provisions listed in the Exhibits have the same force and effect as if they had been listed in the body of this Agreement.

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14. Maintaining Records/Right to Inspect	M Form of Subordination Agreement
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## SECTION 2. DEFINITIONS

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

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

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

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

"Annual Compliance Report" shall mean a signed report from Developer to the City (a) itemizing each of Developer's obligations under the RDA during the preceding calendar year, (b) certifying Developer's compliance or noncompliance with such obligations, (c) attaching evidence (whether or not previously submitted to the City) of such compliance or noncompliance and (d) certifying that Developer is not in default with respect to any provision of the RDA, the agreements evidencing the Lender Financing, if any, or any related agreements; provided, that the obligations to be covered by the Annual Compliance Report shall include the following: (1) compliance with the Operating and Occupancy Covenants (Section 8.06); (2) compliance with the Job Creation Goals (Section 8.06); (3) delivery of Financial Statements and unaudited financial statements (Section 8.13); (4) delivery of updated insurance certificates, if applicable (Section 8.14); (5) delivery of evidence of payment of Non-Governmental Charges, if applicable (Section 8.15); (6) delivery of

evidence that Chicago Sustainable Development Policy has been satisfied (Section 8.22) and (7) compliance with CDBG Objectives as defined in the CDBG Grant Agreement(8) compliance with all other executory provisions of the RDA.

"Available Project Funds" shall have the meaning set forth for such term in Section 4.07 hereof.

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

"Broadway Pharmacy" shall mean a proposed tenant who shall operate a pharmacy at the Project or such other tenant as may be reasonably approved by the City.

"Certificate" shall mean the Certificate of Completion of Rehabilitation described in Section 7.01 hereof.

"Certificate of Occupancy" shall mean that certificate issued by the City's Department of Buildings regarding the occupancy of the Project.

"CDBG" shall mean Community Development Block Grant Program pursuant to 42 U.S.C. 5306.

"CDBG Grant Agreement" shall mean that agreement dated \_\_\_\_\_ of even date herewith between the City and the Developer regarding the CDBG funds for this Project.

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

"City Contract" shall have the meaning set forth in Section 8.01(l) hereof.

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

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

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

"Collateral Assignment" shall mean a collateral assignment of the right to receive payment of City Funds, such collateral assignment to be made by Developer to secure a future bridge loan and in form and substance acceptable to the City in its sole discretion.

"Compliance Period" shall mean a period beginning on the date the Certificate is issued and ending on the 10<sup>th</sup> anniversary of the date the Certificate is issued.

"Contract" shall have the meaning set forth in Section 10.03 hereof.

"Contractor" shall have the meaning set forth in Section 10.03 hereof.

"Construction Contract" shall mean that certain contract to be entered into between QALICB and/or GAGDC and the General Contractor providing for construction of the core and shell of the

Project as well as the buildout of the UI Health Space, Developer Space and Pharmacy Space attached hereto as Exhibit E, and those certain contracts to be entered into between QALICB and/or and the General Contractor providing for construction the tenant buildout of at least fifty percent (50%) of the net rental square footage of the Project.

"Corporation Counsel" shall mean the City's Department of Law.

"Davis Bacon" shall mean the Davis-Bacon Act, 40 U.S.C. Section 276a et seq and implementing regulations, as amended.

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

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

"Employment Plan" shall have the meaning set forth in Section 5.12 hereof.

"Environmental Laws" shall mean any and all federal, state or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called "Superfund" or "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.

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

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

"Escrow Agreement" shall mean the Escrow Agreement establishing a construction escrow, to be entered into as of the date hereof by the Title Company, Developer and the NMTC Lenders.

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

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

"Financial Interest" shall have the meaning set forth for such term in Section 2-156-010 of the Municipal Code.

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



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

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

"HUD Section 3 Requirements" shall mean Section 3 of the United States Department of Housing and Urban Development Act of 1968 (12 U.S.C. 1701 u)(section 3) and its implementing regulations including 24 CFR Part 135.38.

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

"In Balance" shall have the meaning set forth in Section 4.07 hereof.

"Incremental Taxes" shall mean such ad valorem taxes which, pursuant to the TIF Adoption Ordinance and Section 5/11-74.4-8(b) of the Act, are allocated to and when collected are paid to the Treasurer of the City of Chicago for deposit by the Treasurer into the TIF Fund established to pay Redevelopment Project Costs and obligations incurred in the payment thereof.

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

"Investment Fund" shall mean Chase NMTC AG Hub Investment Fund, LLC, a Delaware limited liability company.

"Lender Financing" shall mean funds borrowed by GAGDC or QALICB, as applicable, from lenders and irrevocably available to pay for Redevelopment Project Costs, in the amount set forth in Section 4.01 hereof, including, without limitation, the NMTC Loan and the Senior Loan.

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

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

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

"Municipal Code" shall mean the Municipal Code of the City of Chicago, as amended from time to time.

"Net NMTC Equity" shall have the meaning set forth in Section 4.01 hereof.

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

"NMTC" shall mean the Federal New Markets Tax Credits.

"NMTC Compliance Period" shall mean the earlier of (a) the seventh (7th) anniversary of the closing date of the NMTC Loan or (b) the termination or repayment of the NMTC Loan.

"NMTC Lender" shall mean, collectively, CNMC Sub-CDE182, LLC and CDF Suballocattee XL, LLC.

"NMTC Loan" shall mean those certain loans made by the NMTC Lender to QALICB for the Project.

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

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

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

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

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

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

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

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

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

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

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

"Requisition Form" shall mean the document, in the form attached hereto as Exhibit L, to be delivered by Developer to DPD pursuant to Section 4.04 of this Agreement.

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

"Senior Loan" shall mean the approximately \$3,300,000 loan by JPMorgan Chase Bank, N.A. to GAGDC.

"Survey" shall mean a plat of survey in the most recently revised form of ALTA/ACSM land title survey of the Property, meeting the 2011 Minimum Standard Detail Requirements for

ALTA/ACSM Land Title Surveys, effective February 23, 2011, dated within 75 days prior to the Closing Date, acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State of Illinois, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and updates thereof to reflect improvements to the Property in connection with the construction of the Facility and related improvements as required by the City or lender(s) providing Lender Financing).

"Term of the Agreement" shall mean the period of time commencing on the Closing Date and ending on the tenth anniversary of the issuance of the Certificate.

"TIF District Administration Fee" shall mean the fee described in Section 4.05 hereof.

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

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

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

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

"Title Company" shall mean Greater Illinois Title Company.

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

"UI Health" shall mean the Board of Trustees of the University of Illinois, a body corporate and politic of the State of Illinois on behalf of its affiliate UI Health Mile Square Health Center.

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

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

### SECTION 3. THE PROJECT

3.01 The Project. With respect to the Facility, Developer shall, pursuant to the Plans and Specifications and subject to the provisions of Section 8.17 hereof: (i) commence construction no later than March 31, 2021; and (ii) complete construction and conduct business operations therein no later than June 30, 2023. The Parties acknowledge that execution of this Agreement has occurred within one hundred eighty (180) days of City Council authorization.

3.02 Scope Drawings and Plans and Specifications. Developer has delivered the Scope Drawings and Plans and Specifications to DPD and DPD has approved same. After such initial approval, subsequent proposed changes to the Scope Drawings or Plans and Specifications shall be submitted to DPD as a Change Order pursuant to Section 3.04 hereof. The Scope Drawings and Plans and Specifications shall at all times conform to the Redevelopment Plan and all applicable federal, state and local laws, ordinances and regulations. Developer shall submit all necessary documents to the City's Building Department, Department of Transportation and such other City departments or governmental authorities as may be necessary to acquire building permits and other required approvals for the Project.

3.03 Project Budget. Developer has furnished to DPD, and DPD has approved, a Project Budget showing total costs for the Project in an amount not less than Fifteen Million Four Hundred Nine Thousand One Hundred Twenty Dollars and No/100 (\$15,409,120). Developer hereby certifies to the City that the City Funds, together with Lender Financing, Equity, Net NMTC Equity, CDBG funds and Chicago Prize Grant funds described in Section 4.02 hereof, shall be sufficient to complete the Project. Developer hereby certifies to the City that (a) it has Lender Financing, Equity, Net NMTC Equity, CDBG funds and Chicago Prize Grant funds in an amount sufficient to pay for all Project costs; and (b) the Project Budget is true, correct and complete in all material respects. Developer shall promptly deliver to DPD certified copies of any Change Orders with respect to the Project Budget for approval pursuant to Section 3.04 hereof.

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

business days after the execution of such Change Order and Developer, in connection with such notice, shall identify to DPD the source of funding therefor.

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

3.06 Other Approvals. Any DPD approval under this Agreement shall have no effect upon, nor shall it operate as a waiver of, Developer's obligations to comply with the provisions of Section 5.03 (Other Governmental Approvals) hereof. Developer shall not commence construction of the Project until Developer has obtained all necessary permits and approvals (including but not limited to DPD's approval of the Scope Drawings and Plans and Specifications) and proof of the General Contractor's and each subcontractor's bonding as required hereunder.

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

3.08 Inspecting Agent or Architect. An independent agent or architect (other than Developer's architect) approved by DPD may be selected to act as the inspecting agent or architect, at Developer's expense, for the Project. The inspecting agent or architect shall perform periodic inspections with respect to the Project, providing certifications with respect thereto to DPD, prior to requests for disbursement for costs related to the Project hereunder; provided that, to the extent there is any disagreement between DPD's inspecting architect and the NMTC Lender's inspecting architect, DPD agrees to defer to NMTC Lender's inspecting architect.

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

3.10 Signs and Public Relations. Developer shall erect a sign of size and style approved by the City in a conspicuous location on the Property during the Project, indicating that financing has been provided by the City. This sign may also name the other financing sources. The City reserves the right to include the name, photograph, artistic rendering of the Project and other pertinent information regarding Developer, the Property 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 on the Property 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 shall be obligated to pay only those building, permit, engineering, tap on and inspection fees that are assessed on a uniform basis throughout the City of Chicago and are of general applicability to other property within the City of Chicago.

#### SECTION 4. FINANCING

4.01 Total Project Cost and Sources of Funds. The cost of the Project is estimated to be \$15,409,120 to be applied in the manner set forth in the Project Budget. Such costs shall be funded through a NMTC financing structure, including the NMTC Loan, in part, from the following sources:

Equity (subject to <u>Sections 4.03(b) and 4.06</u> )	\$132,734
Senior Loan	\$3,300,000
City Funds (subject to <u>Section 4.03</u> )	\$2,100,000
CDBG funds	\$4,000,000
Net NMTC Equity	\$2,820,759
Chicago Prize Grant	\$3,055,627
ESTIMATED TOTAL	\$15,409,120

4.02 Developer Funds. Equity, Lender Financing, Net NMTC Equity, CDBG funds and Chicago Prize Grant funds shall be used directly or indirectly through a NMTC financing structure to pay all Project costs, including but not limited to Redevelopment Project costs and costs of TIF-Funded Improvements.

#### 4.03 City Funds.

(a) Uses of City Funds. City Funds may only be used to pay directly or reimburse GAGDC for costs of TIF-Funded Improvements incurred by Developer that constitute Redevelopment Project Costs. Exhibit C 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 Sections 4.03(b) and 4.05(d)), 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. City Funds shall not be paid to GAGDC hereunder prior to the issuance of a Certificate.

(b) Sources of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Section 5 hereof, the City hereby agrees to provide City funds from the sources and in the amounts described directly below (the "City Funds") to pay for or reimburse GAGDC for the costs of the TIF-Funded Improvements incurred by Developer:

<u>Source of City Funds</u>	<u>Maximum Amount</u>
Incremental Taxes	\$2,100,000

provided, however, that the total amount of City Funds expended for TIF-Funded Improvements shall be an amount not to exceed the lesser of Two Million One Hundred Thousand Dollars (\$2,100,000) or thirteen and sixty two hundredths percent (13.62%) of the actual total Project costs; and provided further, that the \$2,100,000 to be derived from Incremental Taxes shall be available to pay costs related to TIF-Funded Improvements and allocated by the City for that

purpose The City Funds shall be paid to GAGDC in two equal disbursements pursuant to the time frames set forth herein and in accordance with the terms and conditions of this Agreement, as follows:

Payment	Timing	Maximum Annual Payment
Payment #1	Issuance of the Certificate	\$1,050,000
Payment #2	First Anniversary of the Issuance of the Certificate	\$1,050,000
<b>TOTAL CITY FUNDS</b>		<b>\$2,100,000</b>

City Funds derived from Incremental Taxes shall be available to pay such costs and allocated for such purposes only so long as the amount of the Incremental Taxes is sufficient to pay for such costs.

The Developer acknowledges and agrees that the City's obligation to pay any City Funds is contingent upon the fulfillment of the conditions set forth in parts (i) and (ii) above, as well as the prior issuance of the Certificate and the Developer's satisfaction of all other applicable terms and conditions of this Agreement, including, without limitation, compliance with the covenants in Section 8.06.

(c) Reduction in City Funds. Upon the occurrence of the following, without limitation, City Funds may be reduced if the final Total Project Cost falls below \$15,931,533, the City Funds will be reduced by \$1.00 for every \$1.00 shortfall. Such reduction shall be made from Payment #1 and, if necessary, from Payment #2.

4.04 Requisition Form. Prior to the request for Payment #1 and Payment #2, GAGDC shall provide DPD with a Requisition Form as provided Exhibit L, along with the documentation described therein. Requisition for reimbursement of TIF-Funded Improvements shall be made not more than one time per calendar year (or as otherwise permitted by DPD).

Developer has provided DPD with a copy of the Escrow Agreement, if any and will provide DPD copies of disbursement requests pursuant to it upon written request.

4.05 TIF District Administration Fee. Annually, the City may allocate an amount not to exceed five percent (5%) of the Incremental Taxes for payment of costs incurred by the City for the administration and monitoring of the Redevelopment Area, including the Project. Such fee shall be in addition to and shall not be deducted from or considered a part of the City Funds, and the City shall have the right to receive such funds prior to any payment of City Funds hereunder.

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

4.07 Preconditions of Disbursement. Prior to each disbursement of City Funds hereunder, Developer shall submit documentation regarding the applicable expenditures to DPD, which shall

be satisfactory to DPD in its sole discretion. Delivery by Developer 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 cost of the Acquisition or 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) Developer has approved all work and materials for the current disbursement request, and such work and materials conform to the Plans and Specifications;

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

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

(f) no Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default exists or has occurred; and

(g) the Project is In Balance. The Project shall be deemed to be in balance ("In Balance") only if the total of the available Project funds equals or exceeds the aggregate of the amount necessary to pay all unpaid Project costs incurred or to be incurred in the completion of the Project. "Available Project Funds" as used herein shall mean: (i) the undisbursed City Funds; (ii) the undisbursed Lender Financing, if any (including any Lender Financing advanced into and available in a controlled account pledged to NMTC Lender); (iii) the undisbursed Equity and (iv) any other amounts deposited by Developer pursuant to this Agreement. Developer hereby agrees that, if the Project is not In Balance, Developer shall, within 10 days after a written request by the City, deposit with the escrow agent or NMTC Lender (or an account controlled by NMTC Lender) 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 Developer to submit further documentation as the City may require in order to verify that the matters certified to above are true and correct, and any disbursement by the City shall be subject to the City's review and approval of such documentation and its satisfaction that such certifications are true and correct; provided, however, that nothing in this sentence shall be deemed to prevent the City from relying on such certifications by Developer. In addition, Developer shall have satisfied all other preconditions of disbursement of City Funds for each disbursement, including but not limited to requirements set forth in the TIF Ordinances, this Agreement, the CDBG Agreement and the Escrow Agreement.

**4.08 Conditional Grant.** The City Funds being provided hereunder are being granted on a conditional basis, subject to the Developer's compliance with the provisions of this Agreement. The City Funds are subject to being reimbursed as provided in Section 7 hereof.



## SECTION 5. CONDITIONS PRECEDENT

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

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

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

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

5.04 Financing. Developer has furnished proof reasonably acceptable to the City that Developer has Equity, Lender Financing, Net NMTA Equity, CDBG funds and Chicago Prize Grant funds in the amounts set forth in Section 4.01 hereof to complete the Project and satisfy its obligations under this Agreement. If a portion of such funds consists of Lender Financing, Developer has furnished proof as of the Closing Date that the proceeds thereof are available to be drawn upon by Developer as needed and are sufficient (along with the Equity and other sources set forth in Section 4.01) to complete the Project. Developer has delivered to DPD a copy of the construction Escrow Agreement. Any liens against the Property in existence at the Closing Date have been subordinated to certain encumbrances of the City set forth herein pursuant to a Subordination Agreement, in a form acceptable to the City, executed on or prior to the Closing Date, which is to be recorded, at the expense of Developer, with the Office of the Recorder of Deeds of Cook County.

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

5.06 Evidence of Clean Title. Developer, at its own expense, has provided the City with searches as indicated in the chart below under Developer's name [(and the following trade names of Developer: Greater Auburn-Gresham Development Corporation and QALICB showing no liens against Developer, the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens:

Jurisdiction	Searches
Secretary of State	UCC, Federal tax
Cook County Recorder	UCC, Fixtures, Federal tax, State tax, Memoranda of

	judgments
U.S. District Court	Pending suits and judgments
Clerk of Circuit Court, Cook County	Pending suits and judgments

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

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

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

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

5.11 Financial Statements. GAGDC has provided Financial Statements to DPD for the last three most recent fiscal years and audited or unaudited interim financial statements.

5.12 Documentation; Employment Plan. The Developer has provided documentation to DPD, satisfactory in form and substance to DPD, with respect to current employment matters in connection with the construction or rehabilitation work on the Project, including the reports described in Section 8.07. At least thirty (30) days prior to the Closing Date, the Developer has met with the Workforce Solutions division of DPD to review employment opportunities with the Developer after construction or rehabilitation work on the Project is completed. On or before the Closing Date, Developer has provided to DPD, and DPD has approved, the Employment Plan for the Project (the "Employment Plan"). The Employment Plan includes, without limitation, the Developer's estimates of future job openings, titles, position descriptions, qualifications, recruiting, training, placement and such other information as DPD has requested relating to the Project.

5.13 Environmental. Developer has provided DPD with copies of that certain phase I environmental audit completed with respect to the Property and any phase II environmental audit with respect to the Property required by the City. Developer has provided the City with a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits. Developer has provided DPD with evidence of its compliance with the environmental requirements under the CDBG regulations.

5.14 Corporate Documents; Economic Disclosure Statement. Each of GAGDC and QALICB has provided a copy of its Articles or Certificate of Incorporation containing the original certification of the Secretary of State of its state of incorporation; certificates of good standing from the Secretary of State of its state of incorporation and all other states in which GAGDC and QALICB are qualified to do business; a secretary's certificate in such form and substance as the Corporation Counsel may require; its by-laws; and such other corporate documentation as the City has requested.

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

5.15 Litigation. Developer has provided to Corporation Counsel and DPD, a description of all pending or threatened litigation or administrative proceedings involving Developer, specifying, in each case, the amount of each claim, an estimate of probable liability, the amount of any reserves taken in connection therewith and whether (and to what extent) such potential liability is covered by insurance.

## SECTION 6. AGREEMENTS WITH CONTRACTORS

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

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

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

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

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

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

## SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION

7.01 Certificate of Completion of Construction or Rehabilitation. Upon completion of the rehabilitation the core and shell of the Project as well as the buildout of the UI Health Space, Developer Space and Pharmacy Space in accordance with the terms of this Agreement, and upon Developer's written request, DPD shall issue to Developer a Certificate in recordable form certifying that Developer has fulfilled its obligation to complete the Project in accordance with the terms of this Agreement. DPD shall make its best efforts to respond to Developer's written request for a Certificate within forty-five (45) days by issuing either a Certificate or a written statement detailing the ways in which the Project does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by Developer in order to obtain the Certificate. Developer may resubmit a written request for a Certificate upon completion of such measures.

The Developer acknowledges and understands that the City will not issue the Certificate and pay out City Funds in connection with the Project, until the following conditions have been met:

- Evidence acceptable to DPD that the Total Project Cost is equal to, or in excess of, \$16,114,106. As described in Section 4.03(c), the City Funds will be reduced on a dollar for dollar basis if the Total Project Cost is less than \$16,114,106; and
- Evidence that Developer has incurred TIF-eligible expenses in an amount equal to, or greater than, the total amount of City Funds for the Project (up to \$2,100,000); and

- Receipt of a Certificate of Occupancy for the core and shell of the Project as well as the UI Health Space, Pharmacy Space and Developer Space or other evidence acceptable to DPD that the developer has complied with building permit requirements for the Project; and spaces
- UI Health Space, Pharmacy Space and Developer Space spaces are occupied and fully operational; and
- Evidence acceptable to DPD in the form of a closeout letter from DPD's Compliance and Monitoring division stating that the Developer is in complete compliance with all City Requirements (MBE/WBE, City Residency, and Davis Bacon) and HUD Section 3 Requirements.

7.02 Effect of Issuance of Certificate; Continuing Obligations. The Certificate relates only to the rehabilitation of the Project, and upon its issuance, the City will certify that the terms of the Agreement specifically related to Developer's obligation to complete such activities have been satisfied. After the issuance of a Certificate, however, all executory terms and conditions of this Agreement and all representations and covenants contained herein will continue to remain in full force and effect throughout the Term of the Agreement as to the parties described in the following paragraph, and the issuance of the Certificate shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms.

Those covenants specifically described at Sections 8.02, 8.06 (d), and 8.19 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 notwithstanding the issuance of a Certificate; provided, that upon the issuance of a Certificate, the covenants set forth in Section 8.02 shall be deemed to have been fulfilled. The other executory terms of this Agreement that remain after the issuance of a Certificate shall be binding only upon Developer or a permitted assignee of Developer who, pursuant to Section 18.15 of this Agreement, has contracted to take an assignment of Developer's rights under this Agreement and assume Developer's liabilities hereunder.

7.03 Failure to Complete. If Developer fails to complete the Project in accordance with the terms of this Agreement, including the dates for commencement and completion of the Project, described in Section 3.1, then the City has, but shall not be limited to, any of the following rights and remedies:

(a) the right to terminate this Agreement and any other agreements to which the City and Developer are parties; and

(b) the right (but not the obligation) to complete those TIF-Funded Improvements that are public improvements and to pay for the costs of TIF-Funded Improvements (including interest costs) out of City Funds or other City monies. In the event that the aggregate cost of completing the TIF-Funded Improvements exceeds the amount of City Funds available pursuant to Section 4.01, GAGDC shall 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 cease all disbursement of City Funds not yet disbursed pursuant hereto and the right to seek reimbursement from GAGDC for City Funds paid to GAGDC.

7.04 Notice of Expiration of Term of Agreement. Upon the expiration of the Term of the Agreement, DPD shall provide Developer, at Developer's written request, with a written notice in recordable form stating that the Term of the Agreement has expired.

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

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

(a) Each of GAGDC and QALICB is an Illinois not-for-profit corporation duly organized, validly existing, qualified to do business in its state of incorporation and in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

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

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

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

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

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

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

(h) 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 is bound;

(i) the Financial Statements are, and when hereafter required to be submitted will be, complete, correct in all material respects and accurately present the assets, liabilities, results of

operations and financial condition of GAGDC or QALICB, as applicable, and there has been no material adverse change in the assets, liabilities, results of operations or financial condition of GAGDC and QALICB since the date of Developer's most recent Financial Statements;

(j) prior to the issuance of a Certificate, Developer shall 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 of all or substantially all of its assets or any portion of the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto) except in the ordinary course of business and except for the master lease from QALICB to GAGDC and subleases from GAGDC to tenants; (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, other than in connection with the Lender Financing, including but not limited to the NMTC Loan, the Senior Loan and other financing needed to complete the Project; or (5) enter into any transaction that would cause a material and detrimental change to Developer's financial condition; provided that the City expressly consents to: (i) the NMTC Loan and a guaranty of (a) completion of the Project, and (b) the NMTC Loan and all amounts due and owing by the QALICB in connection therewith, including fees, expenses and interest but excluding principal; (ii) GAGDC and QALICB agreeing to indemnify an indirect equity holder in the Investment Fund on account of a recapture or disallowance of the NMTC expected to be claimed by such party, (iii) an environmental indemnity by QALICB and GAGDC for the benefit of the NMTC Lenders and affiliates thereof, and (iv) any other Lender Financing and all guarantees and obligations related to said Lender Financing;

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

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

(m) neither Developer nor any affiliate of Developer is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. For purposes of this subparagraph (m) only, the term "affiliate," when used to indicate a relationship with a specified person or entity, means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified person or entity, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

(n) Developer understands that (i) the City Funds are limited obligations of the City, payable solely from moneys on deposit in the 79<sup>th</sup> Street Corridor Account of the TIF Fund; (ii) the City Funds do not constitute indebtedness of the City within the meaning of any constitutional or statutory provision or limitation; (iii) Developer will have no right to compel the exercise of any taxing power of the City for payment of the City Funds; and (iv) the City Funds do not and will not represent or constitute a general obligation or a pledge of the faith and credit of the City, the State of Illinois or any political subdivision thereof;

(o) Developer has sufficient knowledge and experience in financial and business matters, including municipal projects and revenues of the kind represented by the City Funds, and has been supplied with access to information to be able to evaluate the risks associated with the receipt of City Funds;

(p) Developer understands that there is no assurance as to the amount or timing of receipt of City Funds, and that the amounts of City Funds actually received by such party are likely to be substantially less than the maximum amounts set forth in Section 4.03(b);

(q) Developer understands it may not sell, assign, pledge or otherwise transfer its interest in this Agreement or City Funds in whole or in part except in connection with the Lender Financing, the enforcement thereof, or accordance with the terms of Section 16 of this Agreement, and, to the fullest extent permitted by law, agrees to indemnify the City for any losses, claims, damages or expenses relating to or based upon any sale, assignment, pledge or transfer of City Funds in violation of this Agreement; and

(r) Developer acknowledges that with respect to City Funds, the City has no obligation to provide any continuing disclosure to the Electronic Municipal Market Access System maintained by the Municipal Securities Rulemaking Board, to any holder of a note relating to City Funds or any other person under Rule 15c2-12 of the Commission promulgated under the Securities Exchange Act of 1934 or otherwise, and shall have no liability with respect thereto.

(s) The covenants listed in this Section 8 pertaining to transfers, shall not apply to a transfer of ownership interest from QALICB or GAGDC to one of QALICB's or GAGDC's subsidiaries or affiliates through a quitclaim deed.

**8.02 Covenant to Redevelop.** Upon DPD's approval of the Project Budget, the Scope Drawings and Plans and Specifications as provided in Sections 3.02 and 3.03 hereof, and Developer's receipt of all required building permits and governmental approvals, Developer shall redevelop the Property in accordance with this Agreement and all Exhibits attached hereto, the TIF Ordinances, the Scope Drawings, Plans and Specifications, Project Budget and all amendments thereto, and all federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project, the Property and/or Developer. The covenants set forth in this Section 8.02 shall run with the land and be binding upon any transferee, but shall be deemed satisfied upon issuance by the City of a Certificate with respect thereto.

**8.03 Redevelopment Plan.** Developer represents that the Project is and shall be in compliance with all of the terms of the Redevelopment Plan, which is hereby incorporated by reference into this Agreement.



8.04 Use of City Funds. City Funds disbursed to GAGDC shall be used by GAGDC solely to pay for (or to reimburse GAGDC for Developer's payment for) the TIF-Funded Improvements incurred by Developer as provided in this Agreement.

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

8.06 Job Creation Goals and Retention; Operations Covenant; Covenant to Remain in the City. (a) Developer will aspire to create sixty-two (62) full-time equivalent, permanent jobs and sixty-eight (68) temporary full-time equivalent, construction jobs at the Project. Developer's failure to reach the afore-stated goals will not constitute an Event of Default.

(b) Developer shall maintain no less than fifty percent (50%) of the net rental square footage of the Project occupied by operational businesses during the first year of the Compliance Period. Following the first year of the issuance of the Certificate, Developer shall maintain no less than seventy-five percent (75%) of the net rental square footage of the Project occupied by operational businesses throughout the remainder of the Compliance Period. During the Compliance Period, Developer shall be entitled to two (2) nonconsecutive one year cure periods arising from a breach of the occupancy covenant listed in this Section 8.06 (b), and each such one year period, shall be recognized as a ("Cure Period"). During the Cure Period, DPD is not required to make a payment of City Funds. Once cured, any default year by Developer shall not count towards the required term of the Compliance Period or any other obligation of the Developer under this Agreement. If two (2) defaults have occurred and both have been independently cured, then, any subsequent default shall constitute an Event of Default without notice or opportunity to cure.

(c) GAGDC hereby covenants and agrees to maintain its operations within the City of Chicago at the site described above during the term of this Agreement.

(d) Developer covenants and agrees to operate the entire Project as an office building containing a medical clinic for the duration of the Compliance Period, with the exception of recognized holidays or other closures due in the normal course of business. Any breach of the operations covenant shall be an immediate Event of Default with no opportunity to cure. The operations covenant set forth in this Section 8.06(d) shall run with the land and be binding upon any permitted transferee, if any.

During the Compliance Period, the Developer shall, at the time of filing the Annual Compliance Report, to provide DPD with a notarized affidavit certifying to its compliance with this Section 8.06 for the 12 month period ending the day prior to the date of such filing date of such certificate.

8.07 Employment Opportunity[; Progress Reports]. Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each subcontractor to abide by the terms set forth in Section 10 hereof.

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

8.09 Davis Bacon. Developer covenants and agrees to pay, and to contractually obligate and cause the General Contractor and each subcontractor to pay, the wages as determined by the United Secretary of Labor pursuant to the Davis Bacon Act, 40 U.S.C. 3141 et seq. Upon the City's request, Developer shall provide the City with copies of all such contracts entered into by Developer or the General Contractor to evidence compliance with this Section 8.09.

8.10 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 shall provide information with respect to any entity to receive City Funds directly or indirectly (whether through payment to the Affiliate by Developer and reimbursement to Developer for such costs using City Funds, or otherwise), upon DPD's request, prior to any such disbursement.

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

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

8.13 Financial Statements. Developer shall obtain and provide to DPD Financial Statements for Developer's fiscal year ending in 2020 and each year thereafter for the Term of the Agreement. In addition, Developer shall 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.

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

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

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

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge, prevent the imposition of a lien or remove such lien, or prevent the sale or forfeiture of the 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 Charge at the time and in the manner provided in this Section 8.15); or

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

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

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

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

8.19 Real Estate Provisions.

(a) Governmental Charges.

(i) Payment of Governmental Charges. 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 may create, a lien upon Developer or all or any portion of the Property or the Project. "Governmental Charge" shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances (except for those assessed by foreign nations, states other than the State of Illinois, counties of the State other than Cook County, and municipalities other than the City relating to 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 forfeiture of the Property. No such contest or objection shall 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,

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

(ii) Developer shall furnish a good and sufficient bond or other security satisfactory to DPD in such form and amounts as DPD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property 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 any Governmental Charge or to obtain discharge of the same, Developer shall advise DPD thereof in writing, at which time DPD may, but shall 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, shall be promptly disbursed to DPD by Developer. Notwithstanding anything contained herein to the contrary, this paragraph shall not be construed to obligate the City to pay any such Governmental Charge. Additionally, if Developer fails to pay any Governmental Charge, the City, in its sole discretion, may require Developer to submit to the City audited Financial Statements at Developer's own expense.

8.20 Annual Report(s). (a) prior to the issuance of the Certificate, Developer shall submit to DPD the Annual Compliance Report with the annual requisition form. If the report is not received sixty (60) days prior to the anticipated payment dates, the City will provide written notice to developer, after which the Developer will have ten (10) days to file the report with DPD. Developer's

failure to submit the report in a timely manner will result in delay payments of City Funds until any and all deficiencies are cured.

(b) Beginning with the issuance of the Certificate and continuing throughout the Term of the Agreement, Developer shall submit to DPD the Annual Compliance Report within thirty (30) days after the end of the calendar year to which the Annual Compliance Report relates.

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

8.22 Chicago Sustainable Development Policy. Developer shall provide evidence acceptable to the City that it has complied with the Chicago Sustainable Development Policy for the Project.

8.23. FOIA and Local Records Act Compliance.

(a) FOIA. The Developer acknowledges that the City is subject to the Illinois Freedom of Information Act, 5 ILCS 140/1 et. seq., as amended ("FOIA"). The FOIA requires the City to produce records (very broadly defined in FOIA) in response to a FOIA request in a very short period of time, unless the records requested are exempt under the FOIA. If the Developer receives a request from the City to produce records within the scope of FOIA, then the Developer covenants to comply with such request within 48 hours of the date of such request. Failure by the Developer to timely comply with such request shall be an Event of Default.

(b) Exempt Information. Documents that the Developer submits to the City under Section 8.21, (Annual Compliance Report) or otherwise during the Term of the Agreement that contain trade secrets and commercial or financial information may be exempt if disclosure would result in competitive harm. However, for documents submitted by the Developer to be treated as a trade secret or information that would cause competitive harm, FOIA requires that Developer mark any such documents as "proprietary, privileged or confidential." If the Developer marks a document as "proprietary, privileged and confidential", then DPD will evaluate whether such document may be withheld under the FOIA. DPD, in its discretion, will determine whether a document will be exempted from disclosure, and that determination is subject to review by the Illinois Attorney General's Office and/or the courts.

(c) Local Records Act. The Developer acknowledges that the City is subject to the Local Records Act, 50 ILCS 205/1 et. seq, as amended (the "Local Records Act"). The Local Records Act provides that public records may only be disposed of as provided in the Local Records Act. If requested by the City, the Developer covenants to use its best efforts consistently applied to assist the City in its compliance with the Local Records Act

#### 8.24 Recapture of TIF Assistance.

(a) Except in connection with any transfer of the Project from QALICB to GAGDC or an affiliate thereof, or in connection with a financing related to the end of NMTC Compliance Period of the Project, (1) if the sale, transfer or refinance of the Project or any part thereof occurs during the Compliance Period (each happening being a "Capital Event") while the NMTC Loan is outstanding and QALICB or GAGDC is the seller of the Project, GAGDC agrees to pay and remit to the City up to an amount equal to 100% of the total amount of City Funds paid to GAGDC as of the closing date of such transaction, but not more than the amount of the net proceeds of any such sale, transfer or refinancing (the "Excess Proceeds"), on the closing date of such sale or transfer and (2) if there is a Capital Event after the NMTC Loan is discharged in full and any person or entity other than the QALICB and GAGDC is the seller of the Project, then such person or entity agrees to pay and remit to the City up to an amount equal to 100% of the total amount of City Funds paid to GAGDC as of the closing date of such transaction from the Excess Proceeds on the closing date of such sale or transfer.

(b) Any recaptured City Funds received by the City shall be deposited into a separate account within the TIF Fund and shall be used for Redevelopment Project Costs.

(c) Any City Funds subject to recapture that become due and owing to the City pursuant to Section 8.24(a) due to the occurrence of a Capital Event shall be paid by GAGDC on the closing date of such Capital Event.

(d) This Section 8.24 shall be in effect until a Capital Event in which Developer is no longer in control of the entire Project. With respect to Capital Event of less than the entire Project, such successor shall not have any obligations or liabilities under this Section 8.24 provided the Developer shall continue to have obligations under this Section 8.24 with respect to the portion of the Project that was not subject to the Capital Event.

(e) This section shall not apply to any refinancing of the Project that includes conversion of construction financing to permanent financing, provided that no funds are disbursed to the Developer.

(f) The Commissioner of DPD shall have discretion to consent to a waiver of the preceding requirement in Section 8.24 (a) if the Excess Proceeds from such a Capital Event are used for the development of a future phase of the Project in the Redevelopment Area, which consent shall be in the Commissioner's sole discretion.

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

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

9.02 Survival of Covenants. All warranties, representations, and covenants of the City contained in this Section 9 or elsewhere in this Agreement shall be true, accurate, and complete at the time of the City's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and be in effect throughout the Term of the Agreement.

## SECTION 10. DEVELOPER'S EMPLOYMENT OBLIGATIONS

10.01 Employment Opportunity. Developer, on behalf of itself and its successors and assigns, hereby agrees, and shall contractually obligate its or their various contractors, subcontractors or any Affiliate of Developer operating on the Property (collectively, with Developer, the "Employers" and individually an "Employer") to agree, that for the Term of this Agreement with respect to Developer and during the period of any other party's provision of services in connection with the construction of the 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 shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

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

(c) Each Employer shall comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the City's Human Rights Ordinance and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1993), and any subsequent amendments and regulations promulgated thereto.

(d) Each Employer, in order to demonstrate compliance with the terms of this Section, shall cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of federal, state and municipal agencies.

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

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

10.02 City Resident Construction Worker Employment Requirement. Developer agrees for itself and its successors and assigns, and shall contractually obligate its General Contractor and shall cause the General Contractor to contractually obligate its subcontractors, as applicable, to agree, that during the construction of the Project they shall comply with the minimum percentage of total worker hours performed by actual residents of the City as specified in Section 2-92-330 of the Municipal Code (at least 50 percent of the total worker hours worked by persons on the site of the Project shall 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 shall be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions.

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 in accordance with standards and procedures developed by the Chief Procurement Officer of the City.

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

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

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

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

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.

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



When work at the 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 Chicago residents or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Section. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1 percent (0.0005) of the aggregate hard construction costs set forth in the Project budget (the product of .0005 x such aggregate hard construction costs) (as the same shall be evidenced by approved contract value for the actual contracts) shall be surrendered by Developer to the City in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject 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 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.

Nothing herein provided shall be construed to be a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246," or other affirmative action required for equal opportunity under the provisions of this Agreement or related documents.

Developer shall cause or require the provisions of this Section 10.02 to be included in the Construction Contract and all subcontracts related to the Construction Contract.

**10.03. MBE/WBE Commitment.** 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 (the "Procurement Program"), and (ii) the Minority- and Women-Owned Business Enterprise Construction Program, Section 2-92-650 et seq., Municipal Code (the "Construction Program," and collectively with the Procurement Program, the "MBE/WBE Program"), and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, [and as qualified by, the provisions of this Section 10.03, during the course of the Project, at least the following percentages of the MBE/WBE Budget (as set forth in Exhibit H-2 hereto) shall be expended for contract participation by MBEs and by WBEs:

- (1) At least 26 percent by MBEs.
- (2) At least six percent by WBEs.

(b) For purposes of this Section 10.03 only, 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, as applicable.

(c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code, 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, Developer shall not substitute any MBE or WBE General Contractor or subcontractor without the prior written approval of DPD.

(d) 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. 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, 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, 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 11. 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 and this Agreement, the CDBG Grant Agreement, and all Exhibits attached hereto, the Scope Drawings, Plans and Specifications and all amendments thereto and the Redevelopment Plan.

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

## SECTION 12. INSURANCE

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. [City cannot have an interest in proceeds of QALICB property]

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

(i) Workers Compensation and Employers Liability

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

(ii) Commercial General Liability (Primary and Umbrella)

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

(iii) Automobile Liability (Primary and Umbrella)

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

(iv) Railroad Protective Liability

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

(v) All Risk /Builders Risk

When Developer undertakes any construction, including improvements, betterments, and/or repairs, 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.

(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, 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:

(i) All Risk Property Insurance at replacement value of the property to protect against loss of, damage to, or destruction of the building/facility.

(d) Other Requirements:

Developer must furnish the City of Chicago, Department of Planning and Development, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. 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 Developer to obtain and maintain the specified coverages. 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.

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

The coverages and limits furnished by Developer in no way limit 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 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.

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

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

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

## SECTION 13. INDEMNIFICATION

13.01 General Indemnity. Developer agrees to indemnify, pay, defend and hold the City, and its elected and appointed officials, employees, agents and affiliates (individually an "Indemnitee," and collectively the "Indemnitees") harmless from and against, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and

disbursements of any kind or nature whatsoever (and including without limitation, the reasonable fees and disbursements of counsel for such 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 in any manner relating or arising out of:

(i) Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement, including, be not limited to Section 8.27; or

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

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

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

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

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

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

14.02 Inspection Rights. Upon three (3) business days' notice, any authorized representative of the City has access to all portions of the Project and the Property during normal business hours for the Term of the Agreement.

## SECTION 15. DEFAULT AND REMEDIES

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

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

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

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

(d) except as otherwise permitted hereunder, the creation (whether voluntary or involuntary) of, or any attempt to create, any lien or other encumbrance upon the Property, 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 Developer or for the liquidation or reorganization of Developer, or alleging that Developer is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of Developer's debts, whether under the United States Bankruptcy Code or under any other state or federal law, now or hereafter existing for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving Developer; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;

(f) the appointment of a receiver or trustee for 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 shall not constitute an Event of Default unless such appointment is not revoked or such proceedings are not dismissed within sixty (60) days after the commencement thereof;

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

(h) the occurrence of default under the Lender Financing, which default is not cured within any applicable cure period and with respect to which the applicable lender delivers written notice of its intent to foreclose its mortgage, unless such Lender gives written notice to the City that such lender (or its successors, assigns or designees) shall, upon taking possession of the Property, accept the obligations and liabilities of "Developer" under this Agreement as set forth in Section 16 below;



(i) the dissolution of Developer or the death of any natural person who owns a material interest in Developer;

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

(k) Notwithstanding the covenants contained in Section 8.01 (i), prior to the issuance of the Certificate, the sale or transfer of all of the ownership interests of Developer without the prior written consent of the City;

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

(m) the failure of Developer to: (i) commence construction of the Project by March 31, 2021; and (ii) complete construction and conduct business operations therein by June 30, 2023.

For purposes of Sections 15.01(i) and 15.01(j) hereof, a person with a material interest in Developer shall be one owning in excess of ten (10%) of Developer's membership interests.

15.02 Remedies. Upon the occurrence of an Event of Default, the City may terminate this Agreement and any other agreements to which the City and Developer are or shall be parties, suspend disbursement of City Funds, and seek reimbursement of any City Funds from GAGDC. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to damages from GAGDC, injunctive relief or the specific performance of the agreements contained herein. Upon the occurrence of an Event of Default under Section 8.06, GAGDC shall be obligated to repay to the City all previously disbursed City Funds.

Upon the occurrence of an Event of Default because of failure to comply with Section 8.22, Chicago Sustainable Development Policy, the City's remedy shall be the right to reduce the amount of City Funds by \$250,000.

15.03 Curative Period. In the event Developer shall fail to perform a monetary covenant which Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless Developer has failed to perform such monetary covenant within ten (10) days of its receipt of a written notice from the City specifying that it has failed to perform such monetary covenant. In the event Developer shall fail to perform a non-monetary covenant which Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless Developer has failed to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, Developer shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured; provided, further, that there shall be no cure period

under this Section 15.03 with respect to Developer's failure to comply with the operation requirements of Section 8.06 hereof. Notwithstanding the foregoing contained in this Section in the event Developer shall fail to perform a non-monetary covenant which Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred to the extent Developer is unable to perform such requirement as a result of a government mandated construction freeze.

**15.04 Lender Notice and Cure Right.** To the extent that Lender Financing and/or any other Project financing is derived from a tax credit investment, including but not limited to the New Markets Tax Credit and the Low-Income Housing Tax Credits, in the event that an Event of Default occurs under this Agreement, and if, as a result thereof, the City intends to exercise any right or remedy available to it that could result in the termination of this Agreement or the cancellation, suspension, or reduction of any payment due from the City under this Agreement, the City shall send notice of such intended exercise to each of the lenders providing the Lender Financing, and each of the lenders providing the Lender Financing shall have the right (but not the obligation) to cure such an Event of Default under the following conditions:

(a) if the Event of Default is a monetary default, any party entitled to cure such default may cure it within 30 days after the later of: (i) the expiration of the cure period, if any, granted to the Developer with respect to such monetary default; or (ii) receipt by the lenders of such notice from the City; and

(b) if the Event of Default is of a non-monetary nature, any party entitled to cure such default shall have the right to cure it within 30 days after the later of: (i) the expiration of the cure period, if any, granted to the Developer with respect to such non-monetary default; or (ii) receipt of such notice from the City; provided, however, that if such non-monetary default is not reasonably capable of being cured by the lenders within such 30-day period, such period shall be extended for such reasonable period of time as may be necessary to cure such default, provided that the party seeking such cure must continue diligently to pursue such cure and, if possession of the Project is necessary to effect such cure, the party seeking such cure must have instituted appropriate legal proceedings to obtain possession to the extent such party has the right to do so.

## SECTION 16. 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 hereto (including but not limited to mortgages made prior to or on the date hereof in connection with Lender Financing, including, but not limited to the NMTC Loan and the Senior Loan) and are referred to herein as the "Existing Mortgages." Any mortgage or deed of trust that Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof is referred to herein as a "New Mortgage." Any New Mortgage that Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof with the prior written consent of the City and any Existing Mortgage is referred to herein as a "Permitted Mortgage." It is hereby agreed by and between the City and Developer as follows:

(a) In the event that a mortgagee or any other party shall succeed to Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under a New Mortgage (other than a Permitted Mortgage), whether by foreclosure or deed in lieu of foreclosure,

and in conjunction therewith accepts an assignment of Developer's interest hereunder in accordance with Section 18.15 hereof, the City may, but shall not be obligated to, attorn to and recognize such party as the successor in interest to Developer for all purposes under this Agreement and, unless so recognized by the City as the successor in interest, such party shall be entitled to no rights or benefits under this Agreement, but such party shall be bound by those provisions of this Agreement that are covenants expressly running with the land.

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

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

## SECTION 17. NOTICE

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

<p><b>If to the City:</b></p> <p>City of Chicago  Department of Planning and Development  121 North LaSalle Street, Room 1000  Chicago, Illinois 60602  Attention: Commissioner</p>	<p><b>If to Developer:</b></p> <p>Greater Auburn-Gresham Development Corporation  GAGDC Support Corporation  7901 South Racine Avenue  Chicago, IL 60620  Attention: Carlos Nelson or Chief Executive Officer  Facsimile: 773-483-3692  Email: cnelson@gagdc.org</p> <p>After Completion:</p>
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	<p>Greater Auburn-Gresham Development Corporation  GAGDC Support Corporation  839 W. 79<sup>th</sup> Street  Chicago, IL 60620  Attention: Carlos Nelson or Chief Executive Officer  Facsimile: 773-483-3692  Email: <a href="mailto:cnelson@gagdc.org">cnelson@gagdc.org</a></p>
<p>With Copies To:</p> <p>City of Chicago  Department of Law  121 North LaSalle Street, Room 600  Chicago, Illinois 60602  Attention: Finance and Economic Development Division</p>	<p>With Copies To:</p> <p>Applegate &amp; Thorne-Thomsen, P.C.  425 S. Financial Place, Suite 1900  Chicago, Illinois 60605  Attention: Dan Klaff  Facsimile: 312-491-4411  Email: <a href="mailto:dklaff@att-law.com">dklaff@att-law.com</a></p>
<p>If to NMTC Lender:</p> <p>CDF Suballocatee XL, LLC  c/o Chicago Development Fund, c/o Department of Planning and Development, City of Chicago,  121 North LaSalle Street, Room 1000, Chicago, Illinois 60602  Attention: Commissioner, Department of Planning and Development  Facsimile: (312) 747-9207  Attention: Managing Deputy Commissioner for Bureau of Economic Development  Department of Planning and Development</p> <p>And</p> <p>CNMC Sub-CDE 182, LLC  c/o JPMorgan Chase Bank, N.A.  Mail Code IL 1-0953  10 S. Dearborn Street, 19th Floor  Chicago, IL 60603  Attention: NMTC Asset Manager  Email: <a href="mailto:nmtc.reporting@chase.com">nmtc.reporting@chase.com</a></p>	
<p>With Copies To:</p> <p>Perkins Coie LLP  131 S. Dearborn St., Suite 1700  Chicago, IL 60603  Attn: Bruce Bonjour</p> <p>And a copy to:</p>	

S.B. Friedman & Company 221 North LaSalle Street, Suite 820 Chicago, Illinois 60601 Attention: Tony Q. Smith Facsimile: (312) 424-4262  And  Dentons US LLP 233 South Wacker Drive, Suite 5900 Chicago, Illinois 60606 Attention: Jonathan M. Kaden	
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Such addresses may be changed by notice to the other parties given in the same manner provided above. Any notice, demand, or request sent pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch. Any notice, demand or request sent pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier and any notices, demands or requests sent pursuant to subsection (d) shall be deemed received two (2) business days following deposit in the mail.

## SECTION 18. MISCELLANEOUS

**18.01 Amendment.** This Agreement and the Exhibits attached hereto may not be amended or modified without the prior written consent of the parties hereto; provided, however, that the City, in its sole discretion, may amend, modify or supplement the Redevelopment Plan without the consent of any party hereto. It is agreed that no material amendment or change to this Agreement shall be made or be effective unless ratified or authorized by an ordinance duly adopted by the City Council. The term "material" for the purpose of this Section 18.01 shall be defined as any deviation from the terms of the Agreement which operates to cancel or otherwise reduce any developmental, construction or job-creating obligations of Developer (including those set forth in Sections 10.02 and 10.03 hereof) by more than five percent (5%) or materially changes the Project site or character of the Project or any activities undertaken by Developer affecting the Project site, the Project, or both, or increases any time agreed for performance by Developer by more than one hundred eighty (180) days.

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

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

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

18.05 Waiver. Waiver by the City or Developer with respect to any breach of this Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other default or with respect to any particular default, except to the extent specifically waived by the City or Developer in writing. No delay or omission on the part of a party in exercising any right shall operate as a waiver of such right or any other right unless pursuant to the specific terms hereof. A waiver by a party of a provision of this Agreement shall not prejudice or constitute a waiver of such party's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by a party, nor any course of dealing between the parties hereto, shall constitute a waiver of any such parties' rights or of any obligations of any other party hereto as to any future transactions.

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

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

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

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

18.10 Conflict. In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances, such ordinance(s) shall prevail and control.

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

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

18.13 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 Certificate or otherwise administering this Agreement for the City.

18.14 Assignment. Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City. The City hereby consents to the execution and delivery of a Collateral Assignment in favor of any lender holding Lender Financing. Any successor in interest to Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not

limited to Sections 8.19 Real Estate Provisions and 8.23 (Survival of Covenants) hereof, for the Term of the Agreement. Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

18.15 Binding Effect. This Agreement shall be binding upon Developer, the City and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of Developer, the City and their respective successors and permitted assigns (as provided herein). Except as otherwise provided herein, this Agreement shall not run to the benefit of, or be enforceable by, any person or entity other than a party to this Agreement and its successors and permitted assigns. This Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right.

18.16 Force Majeure. Neither the City nor Developer nor any successor in interest to either of them shall be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder. The individual or entity relying on this section with respect to any such delay shall, upon the occurrence of the event causing such delay, immediately give written notice to the other parties to this Agreement. The individual or entity relying on this section with respect to any such delay may rely on this section only to the extent of the actual number of days of delay effected by any such events described above.

18.17 Business Economic Support Act. Pursuant to the Business Economic Support Act (30 ILCS 760/1 et seq.), if Developer is required to provide notice under the WARN Act, Developer shall, in addition to the notice required under the WARN Act, provide at the same time a copy of the WARN Act notice to the Governor of the State, the Speaker and Minority Leader of the House of Representatives of the State, the President and minority Leader of the Senate of State, and the Mayor of each municipality where 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.

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

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

18.20 Business Relationships. Developer acknowledges (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code, (B) that Developer has read such provision and understands that pursuant to such Section 2-156-030 (b), it is illegal for any elected official of the City, or any

person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected City official or employee has a business relationship that creates a "Financial Interest" (as defined in Section 2-156-010 of the Municipal Code)(a "Financial Interest"), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving any person with whom the elected City official or employee has a business relationship that creates a Financial Interest, or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a business relationship that creates a Financial Interest, and (C) that a violation of Section 2-156-030 (b) by an elected official, or any person acting at the direction of such official, with respect to any transaction contemplated by this Agreement shall be grounds for termination of this Agreement and the transactions contemplated hereby. Developer hereby represents and warrants that, to the best of its knowledge after due inquiry, no violation of Section 2-156-030 (b) has occurred with respect to this Agreement or the transactions contemplated hereby.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]



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

**GREATER AUBURN-GRESHAM  
DEVELOPMENT CORPORATION**

By: \_\_\_\_\_  
Carlos Nelson

Its : Executive Director

**GAGDC SUPPORT CORPORATION**

By: \_\_\_\_\_  
Carlos Nelson

Its : President

**CITY OF CHICAGO**

By: \_\_\_\_\_  
Maurice D. Cox,  
Commissioner  
Department of Planning and Development

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, \_\_\_\_\_, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Carlos Nelson, personally known to me to be the Executive Director of Greater Auburn-Gresham Development Corporation, an Illinois not-for-profit corporation (the "Developer"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the Board of Directors of Developer, as his/her free and voluntary act and as the free and voluntary act of Developer, for the uses and purposes therein set forth.

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

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

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

(SEAL)

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, \_\_\_\_\_, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ of GAGDC Support Corporation, an Illinois not-for-profit corporation (the "Developer"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the Board of Directors of Developer, as his/her free and voluntary act and as the free and voluntary act of Developer, for the uses and purposes therein set forth.

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

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

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

(SEAL)

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, \_\_\_\_\_, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Maurice D. Cox, personally known to me to be the 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 and as the free and voluntary act of the City, for the uses and purposes therein set forth.

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

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

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

EXHIBIT A  
REDEVELOPMENT AREA  
[To be attached at Closing]

EXHIBIT B

PROPERTY

[Subject to Survey and Title Insurance]

LOTS 1 TO 10, BOTH INCLUSIVE, IN BLOCK 2 IN CHESTER HIGHLANDS ADDITION TO AUBURN PARK, BEING A SUBDIVISION OF THE EAST 7/8 OF THE NORTH 1/2 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 SECTION 32, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property Address: 839-45 W. 79<sup>th</sup> Street

PINS:

20-32-206-001-0000  
20-32-206-002-0000  
20-32-206-003-0000  
20-32-206-004-0000  
20-32-206-005-0000  
20-32-206-006-0000

EXHIBIT C  
TIF-FUNDED IMPROVEMENTS

[See Attached]

USES OF FUNDS	TOTALS	% of total	TIF Eligible
<b>% of Costs Allocation</b>			
<b>Acquisition &amp; Holding Costs</b>			
Acquisition	600,000.00	3.89%	600,000
Holding Costs (Property Taxes, & Insurance)	550,000.00	3.57%	
<b>Hard Cost</b>			
Site Remediation	300,000	1.95%	300,000
Terra Cotta Remediation	336,587	2.18%	336,587
Light Demolition	100,000	0.65%	100,000
Construction	5,791,269	37.58%	5,791,269
General Conditions	363,684	2.36%	
Overhead (see GC)	96,941	0.63%	
Contractor Profit	64,627	0.42%	64,627
GC Liability Insurance	48,470	0.31%	
Performance Bond	62,640	0.41%	
Contingency (10%)	642,763	4.17%	
<b>Total Hard Costs &amp; Contingency</b>	<b>7,806,981</b>	<b>50.66%</b>	<b>6,592,483</b>
<b>Total Acquisition and Hard Costs</b>	<b>8,956,981</b>	<b>58.13%</b>	<b>7,192,483</b>
<b>SOFT COSTS</b>			
<b>Professional Services</b>			
Architectural Design	484,420	3.14%	484,420
Architect - Construction Observation	91,430	0.59%	91,430
Architects Reimbursables	10,000	0.06%	10,000
Owners Rep - Construction Mgmt	50,000	0.32%	
Job Site Security	135,000	0.88%	
Site Testing/Geotechnical	5,000	0.03%	5,000
Site Testing - During Construction	10,000	0.06%	10,000
Site Utilities (AT&T, ComFD, Water, etc.)	15,000	0.10%	
ALTA Survey	10,000	0.06%	10,000
Financial Consultant	201,491	1.31%	
FF&E	250,000	1.62%	
Permit Expeditor & Expedited Permit Fee	17,100	0.11%	
Building Permit & Landscape Deposit	30,000	0.19%	
Security System, Intercom, Telecommunications	50,000	0.32%	
IT/Switching/Wireless/UPS	150,000	0.97%	
Interiors and Move-In Consultants	50,000	0.32%	
Appraisal	7,500	0.05%	7,500
Environmental (Phase I&II, Reliance Letter)	15,700	0.10%	15,700
Asbestos & Lead Report	12,250	0.08%	12,250
IEPA Enrollment, Oversight, Investigation & Reporting	102,200	0.66%	
Market Study	7,500	0.05%	7,500
Engineer - Terra Cotta	30,000	0.19%	30,000
Accounting/Audit	10,000	0.06%	
Accounting/Post Const. Audit	10,400	0.07%	
<b>Other Soft Costs</b>			
Marketing & Brokerage Fee	400,000	2.60%	
Title/Recording/Settlement Fees	20,000	0.13%	
Legal Fee Borrower	48,162	0.31%	
<b>Escrows</b>			
Real Estate Taxes Escrow	92,500	0.60%	
Real Estate Taxes During Construction	41,469	0.27%	
Insurance During Construction	80,000	0.52%	
Insurance Escrow	30,000	0.19%	
<b>Financing Costs</b>			
Application Fees	-	0.00%	
Lender Origination Fee - Budget & Term Loans	27,000	0.18%	
Lender Origination Fee (Conversion)	-	0.00%	
Term & Bridge Loan Lender Legal Fees	80,000	0.52%	
PreDevelopment Loan Interest (LIISC)	-	0.00%	
Construction/Bridge Loan Interest	159,493	1.04%	
Term Loan Interest Reserve	213,297	1.38%	
Lenders Inspection Fees	20,600	0.13%	
<b>Project Reserves &amp; Allowances</b>			
Lender Operating Expense Reserve	342,525	2.22%	
Replacement Reserve	24,831	0.16%	
Operating Reserves	115,625	0.75%	
FQHC Leasehold Improvements Allowance	1,300,000	8.44%	
GAGDC Leasehold Improvement Allowance	783,736	5.09%	
Tenant Leasehold Improvement Allowance for spaces at CoC	882,910	5.73%	
Tenant Leasehold Improvement Allowance for remaining spaces	-		
<b>Developer Fee's</b>			
Developer Fee	-	0.00%	
Soft Cost Contingencies	35,533	0.23%	
<b>Total Soft Costs</b>	<b>6,452,139</b>	<b>41.87%</b>	<b>683,800</b>
<b>TOTAL USES OF FUNDS</b>	<b>15,409,120</b>	<b>100.00%</b>	<b>7,876,283</b> *



\*Notwithstanding the total of TIF-Funded Improvements or the amount of TIF-eligible costs, the assistance to be provided by the City is limited to the amount described in Section 4.03 and shall not exceed the lesser of \$2,100,000 or 13.62% of the Project Budget.

EXHIBIT D  
INTENTIONALLY OMITTED

EXHIBIT E  
CONSTRUCTION CONTRACT  
[To be attached at Closing]

EXHIBIT F

ESCROW AGREEMENT

[To be attached at Closing]

## EXHIBIT G

### PERMITTED LIENS

1. Liens or encumbrances against the Property:

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

2. Liens or encumbrances against Developer or the Project, other than liens against the Property, if any: provided however that GAGDC is providing a lien against its assets to Senior Lender as collateral for the Senior Loan.

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

# EXHIBIT H-1

## PROJECT BUDGET

### USES OF FUNDS

Acquisition	\$ 600,000
Holding Costs	\$ 550,000
TOTAL ACQUISITION & HOLDING COSTS	\$1,150,000

Construction Hard Costs	\$7,806,981
Other Construction Hard Costs (TI)?	<u>\$2,966,646</u>
TOTAL CONSTRUCTION COSTS	\$10,773,627

### Soft Costs

Professional Services	\$ 1,617,196
Lender & Financing Fees	\$ 481,850
Insurance & Taxes	\$ 243,969
FF&E	\$ 250,000
Marketing & Brokerage Fee	\$ 400,000
Reserves	\$ 492,478
Developer Fees	\$ -0-
TOTAL SOFT COSTS	<u>\$ 3,485,493</u>
TOTAL PROJECT COSTS	\$ 15,409,120

### SOURCES OF FUNDS

Chase	\$ 3,300,000
City of Chicago DPD TIF	\$ 2,100,000
City of Chicago CDBG	\$ 4,000,000
Chicago Prize – Pritzker Traubert Foundation	\$ 3,055,627
Net New Market Tax Credit Equity	\$ 2,820,759
GAGDC – Owners Equity	<u>\$ 132,734</u>
TOTAL SOURCES OF FUNDS	\$ 15,409,120

## EXHIBIT H-2

### MBE/WBE BUDGET

MBE/WBE HARD COSTS	\$10,773,627
TOTAL MBE/WBE PROJECT COSTS	\$10,773,627
MBE 26%	\$2,801,143
WBE 6%	\$ 646,418

EXHIBIT I  
INTENTIONALLY OMITTED



EXHIBIT J

OPINION OF DEVELOPER'S COUNSEL

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

City of Chicago  
121 North LaSalle Street  
Chicago, IL 60602

ATTENTION: Corporation Counsel

Ladies and Gentlemen:

We have acted as counsel to Greater Auburn-Gresham Development Corporation, an Illinois not-for-profit corporation and GAGDC Support Corporation, an Illinois not-for-profit corporation ("QALICB") (collectively, the "Developer"), in connection with the purchase of certain land and the construction of certain facilities thereon located in the 79<sup>th</sup> Street Corridor 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) Greater Auburn-Gresham Development Corporation Redevelopment Agreement (the "Agreement") of even date herewith, executed by Developer and the City of Chicago (the "City");
- (b) the Escrow Agreement of even date herewith executed by Developer;
- (c) [insert other documents including but not limited to documents related to purchase and financing of the Property and all lender financing related to the Project]; and
- (d) all other agreements, instruments and documents executed in connection with the foregoing.

In addition to the foregoing, we have examined

- (a) the original or certified, conformed or photostatic copies of Developer's (i) Articles of Incorporation, as amended to date, (ii) qualifications to do business and certificates of good standing in all states in which Developer is qualified to do business, (iii) By-Laws, as amended to date, and (iv) records of all corporate proceedings relating to the Project [revise if Developer is not a corporation]; and
- (b) such other documents, records and legal matters as we have deemed necessary or relevant for purposes of issuing the opinions hereinafter expressed.

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

Based on the foregoing, it is our opinion that:

1. Developer is a corporation duly organized, validly existing and in good standing under the laws of its state of [incorporation] [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 [corporation] [entity] under the laws of every state in which the conduct of its affairs or the ownership of its assets requires such qualification, except for those states in which its failure to qualify to do business would not have a material adverse effect on it or its business.

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

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

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

5. Exhibit A attached hereto (a) identifies each class of capital stock of Developer, (b) sets forth the number of issued and authorized shares of each such class, and (c) identifies the record owners of shares of each class of capital stock of Developer and the number of shares held of record by each such holder. To the best of our knowledge after diligent inquiry, except as set forth on Exhibit A, there are no warrants, options, rights or commitments of purchase, conversion, call or exchange or other rights or restrictions with respect to any of the capital stock of Developer. Each outstanding share of the capital stock of Developer is duly authorized, validly issued, fully paid and nonassessable.

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

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

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

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

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

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

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

[Note: include a reference to the laws of the state of incorporation/organization of Developer, if other than Illinois.]

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

Very truly yours,

---

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

EXHIBIT K  
INTENTIONALLY OMITTED

EXHIBIT L  
REQUISITION FORM

STATE OF ILLINOIS   )  
  ) SS  
COUNTY OF COOK    )

The affiant, Greater Auburn-Gresham Development Corporation, an Illinois not-for-profit corporation ("GAGDC"), hereby certifies that with respect to that certain Greater Auburn-Gresham Development Corporation Redevelopment Agreement between 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.     GAGDC 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.     GAGDC 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 Developer (as defined in the Agreement) is in compliance with all applicable covenants contained herein.

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

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

GREATER AUBURN-GRESHAM  
DEVELOPMENT CORPORATION

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

Name

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

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

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

GAGDC SUPPORT CORPORATION

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

Name

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

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

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

EXHIBIT M

FORM OF SUBORDINATION AGREEMENT

This document prepared by and after recording return to:  
Charles E. Rodgers, Jr., Esq.  
City of Chicago  
Department of Law  
121 North LaSalle Street, Room 600  
Chicago, IL 60602

SUBORDINATION AGREEMENT

This Subordination Agreement ("Agreement") is made and entered into as of the day of \_\_\_\_\_, \_\_\_\_\_ between the City of Chicago, a municipal corporation, by and through its Department of Planning and Development (the "City"), [Name Lender], a [national banking association] (the "Lender").

WITNESSETH:

WHEREAS, GAGDC Support Corporation, an Illinois not-for-profit corporation ("QALICB") has acquired certain property located within the Redevelopment Area at 839-845 W. 79<sup>th</sup> Street Chicago, Illinois 60620 (the "Property"), and along with Greater Auburn-Gresham Development Corporation, an Illinois not-for-profit corporation ("GAGDC")(collectively, the "Developer") shall commence and complete rehabilitation of (i) the core and shell of an approximately 50,705 square foot office building and wellness center (the "Facility") thereon, (ii) the build out of (a) approximately 12,500 square feet of the Facility for use by GAGDC (the "Developer Space"), (b) approximately 11,750 square feet for use by UI Health (the "UI Health Space"), (c) approximately 1,000 square feet for use by Broadway Pharmacy (the "Pharmacy Space") and (d) approximately 25,450 square feet for use by other tenants for community development, workforce development and wellness related uses (the "Additional Space"). The core and shell of the Facility and the buildout of the Developer Space, UI Health Space, Pharmacy Space and the Additional Space (including but not limited to those TIF-Funded Improvements as defined in the Redevelopment Agreement are collectively referred to as the ("Project"); and

WHEREAS, [describe financing and security documents](all such agreements referred to above and otherwise relating to the Loan referred to herein collectively as the "Loan Documents");

WHEREAS, Developer desires to enter into a certain Redevelopment Agreement dated the date hereof with the City in order to obtain additional financing for the Project (the "Redevelopment Agreement," referred to herein along with various other agreements and documents related thereto as the "City Agreements");



WHEREAS, pursuant to the Redevelopment Agreement, Developer will agree to be bound by certain covenants expressly running with the Property, as set forth in Sections 8.02, 8.06 (d) and 8.19 of the Redevelopment Agreement (the "City Encumbrances");

WHEREAS, the City has agreed to enter into the Redevelopment Agreement with Developer as of the date hereof, subject, among other things, to (a) the execution by Developer of the Redevelopment Agreement and the recording thereof as an encumbrance against the Property; and (b) the agreement by the Lender to subordinate their respective liens under the Loan Documents to the City Encumbrances; and

NOW, THEREFORE, for good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Lender and the City agree as hereinafter set forth:

1. Subordination. All rights, interests and claims of the Lender in the Property pursuant to the Loan Documents are and shall be subject and subordinate to the City Encumbrances. In all other respects, the Redevelopment Agreement shall be subject and subordinate to the Loan Documents. Nothing herein, however, shall be deemed to limit the Lender's right to receive, and Developer's ability to make, payments and prepayments of principal and interest on the Note, or to exercise its rights pursuant to the Loan Documents except as provided herein.

2. Notice of Default. The Lender shall use reasonable efforts to give to the City, and the City shall use reasonable efforts to give to the Lender, (a) copies of any notices of default which it may give to Developer with respect to the Project pursuant to the Loan Documents or the City Agreements, respectively, and (b) copies of waivers, if any, of Developer's default in connection therewith. Under no circumstances shall Developer or any third party be entitled to rely upon the agreement provided for herein.

3. Waivers. No waiver shall be deemed to be made by the City or the Lender of any of their respective rights hereunder, unless the same shall be in writing, and each waiver, if any, shall be a waiver only with respect to the specific instance involved and shall in no way impair the rights of the City or the Lender in any other respect at any other time.

4. Governing Law; Binding Effect. This Agreement shall be interpreted, and the rights and liabilities of the parties hereto determined, in accordance with the internal laws and decisions of the State of Illinois, without regard to its conflict of laws principles, and shall be binding upon and inure to the benefit of the respective successors and assigns of the City and the Lender.

5. Section Titles; Plurals. The section titles contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto. The singular form of any word used in this Agreement shall include the plural form.

6. Notices. Any notice required hereunder shall be in writing and addressed to the party to be notified as follows:

<b>If to the City:</b>	<b>If to Developer:</b>
City of Chicago	Greater Auburn-Gresham Development

<p>Department of Planning and Development  121 North LaSalle Street, Room 1000  Chicago, Illinois 60602  Attention: Commissioner</p>	<p>Corporation  GAGDC Support Corporation  7901 South Racine Avenue  Chicago, IL 60620  Attention: Carlos Nelson or Chief Executive Officer  Facsimile: 773-483-3692  Email: cnelson@gagdc.org</p> <p>After Completion:</p> <p>Greater Auburn-Gresham Development Corporation  GAGDC Support Corporation  839 W. 79th Street  Chicago, IL 60620  Attention: Carlos Nelson or Chief Executive Officer  Facsimile: 773-483-3692  Email: cnelson@gagdc.org</p>
<p>With Copies To:</p> <p>City of Chicago  Department of Law  121 North LaSalle Street, Room 600  Chicago, Illinois 60602  Attention: Finance and Economic Development Division</p>	<p>With Copies To:</p> <p>Applegate &amp; Thorne-Thomsen, P.C.  425 S. Financial Place, Suite 1900  Chicago, Illinois 60605  Attention: Dan Klaff  Facsimile: 312-491-4411  Email: dklaff@att-law.com</p>

or to such other address as either party may designate for itself by notice. Notice shall be deemed to have been duly given (i) if delivered personally or otherwise actually received, (ii) if sent by overnight delivery service, (iii) if mailed by first class United States mail, postage prepaid, registered or certified, with return receipt requested, or (iv) if sent by facsimile with facsimile confirmation of receipt (with duplicate notice sent by United States mail as provided above). Notice mailed as provided in clause (iii) above shall be effective upon the expiration of three (3) business days after its deposit in the United States mail. Notice given in any other manner described in this paragraph shall be effective upon receipt by the addressee thereof; provided, however, that if any notice is tendered to an addressee and delivery thereof is refused by such addressee, such notice shall be effective upon such tender.

7. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one instrument.

IN WITNESS WHEREOF, this Subordination Agreement has been signed as of the date first written above.

[LENDER], [a national banking association]

By:

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

CITY OF CHICAGO

By:

Its: Commissioner,  
Department of Planning and Development

ACKNOWLEDGED AND AGREED TO THIS

\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_

[Developer], a \_\_\_\_\_

By:

Its:

Exhibit to Subordination Agreement – Legal Description

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 Maurice D. Cox, personally known to me to be the Commissioner of the Department of Planning and Development of the City of Chicago, Illinois (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 as such Commissioner, (s)he signed and delivered the said instrument pursuant to authority, as his/her free and voluntary act, and as the free and voluntary act and deed of said City, for the uses and purposes therein set forth.

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

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

My Commission Expires

(SEAL)

STATE OF ILLINOIS       )  
                                      ) SS  
COUNTY OF COOK       )

I, \_\_\_\_\_, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY THAT \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ of [Lender], a \_\_\_\_\_, 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 Lender, as his/her free and voluntary act and as the free and voluntary act of the Lender, for the uses and purposes therein set forth.

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

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

My Commission Expires

(SEAL)

EXHIBIT N  
FORM OF PAYMENT BOND

[To be attached at Closing]



OFFICE OF THE MAYOR  
CITY OF CHICAGO

LORI E. LIGHTFOOT  
MAYOR

November 16, 2020

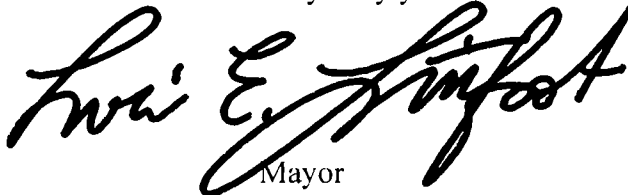
TO THE HONORABLE, THE CITY COUNCIL  
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Planning and Development, I transmit herewith an ordinance authorizing tax increment financing funds and the execution of an associated redevelopment agreement with the Greater Auburn Gresham Development Corporation.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in black ink, reading "Lori E. Lightfoot".

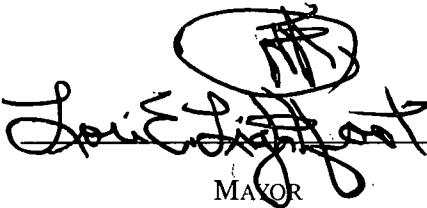
Mayor

APPROVED

  
CORPORATION COUNSEL

DATED: 12-17-24

APPROVED

  
MAYOR

DATED: 12-17-24