



# Office of the City Clerk

City Hall  
121 N. LaSalle St.  
Room 107  
Chicago, IL 60602  
www.chicityclerk.com

## Legislation Details (With Text)

**File #:** O2014-6703  
**Type:** Ordinance      **Status:** Passed  
**File created:** 7/30/2014      **In control:** City Council  
**Final action:** 7/30/2014

**Title:** Redevelopment agreement with St. Edmund's Redevelopment Corp. regarding conveyance of property at 6151 S Michigan Ave, and associated tax credits

**Sponsors:** Dept./Agency

**Indexes:** Redevelopment

**Attachments:** 1. O2014-6703.pdf

Date	Ver.	Action By	Action	Result
8/1/2014	1	City Council	Signed by Mayor	
7/30/2014		City Council	Passed	Pass
7/29/2014	1	Committee on Finance	Recommended to Pass	Fail
7/29/2014	1	Committee on Finance	Direct Introduction	Fail

CHICAGO July 30. 2014

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

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

An ordinance authorizing the Commissioner of the Department of Planning and Development to enter into and execute a Redevelopment Agreement and approve the donation of tax credits for St. Edmund's Redevelopment Corporation.

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

**This recommendation was concurred in by of members of the committee with**

**Respectfully submitted**

**Chairman**

**Document No.**

**REPORT OF THE COMMITTEE ON FINANCE TO THE CITY COUNCIL CITY OF CHICAGO**  
Department of Planning and Development  
CITY OF CHICAGO

July 25, 2014

**TO THE HONORABLE CHAIRMAN, EDWARD M. BURKE AND MEMBERS OF THE  
COMMITTEE ON FINANCE OF THE CITY COUNCIL**

Ladies and Gentlemen:

I transmit herewith an ordinance requesting the conveyance of one City-owned parcel located at 6151 South Michigan Avenue to St. Edmund's Redevelopment Corporation (SERC). The land is valued at \$180,000. The City will write down the value of the land by \$179,999 and sell the parcel to the developer, SERC, for \$1.00. SERC has received an award of Illinois Housing Development Authority (IHDA) Donation Tax Credits. SERC will deed the land to St. Edmund's Tower Annex, Inc. and give them the donation tax credit equity as a grant.

Your favorable consideration of the ordinance will be appreciated.

Andrew J. Mooney Commissioner

Very truly yours,

121 NORTH LASALLE STREET, ROOM 1000, CHICAGO, ILLINOIS 60602

**ORDINANCE**

WHEREAS, the City of Chicago (the "City"), a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois, has heretofore found and does hereby find that there exists within the City a serious shortage of decent, safe and sanitary rental housing available to persons of low and moderate income; and

WHEREAS, the City has determined that the continuance of a shortage of affordable rental housing is harmful to the health, prosperity, economic stability and general welfare of the City; and

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

WHEREAS, the City is the owner of the vacant parcel of land located at 6151 South Michigan Avenue, Chicago, Illinois, which is legally described on Exhibit A attached hereto (the "Property"); and

WHEREAS, St. Edmund's Redevelopment Corporation, an Illinois not-for-profit corporation (the "SERC"), desires to purchase the Property from the City, and to immediately reconvey it to St. Edmund's Tower Annex, Inc., an Illinois not-for-profit corporation ("Annex"); and

WHEREAS, Annex proposes to develop on the Property a five-story, 34-unit, affordable rental apartment building for independent seniors (the "Project"); and

WHEREAS, the Property's appraised fair market value is One Hundred Eighty Thousand Dollars (\$180,000) and SERC has submitted a proposal to the City's Department of Planning and Development ("DPD") to purchase the Property for One Dollar (\$1.00), which is a writedown of One Hundred Seventy-Nine Thousand Nine Hundred Ninety-Nine Dollars (\$179,999); and

WHEREAS, Annex has agreed to undertake the Project pursuant to the terms and conditions of a redevelopment agreement in substantially the form attached hereto as Exhibit B (the "Redevelopment Agreement"); and

WHEREAS, pursuant to Resolution No. 14-052-21 adopted on July 17, 2014, by the Plan Commission of the City (the "Commission"), the Commission recommended the sale of the Property; and

WHEREAS, public notice advertising the City's intent to enter into a negotiated sale of the Property with SERC and requesting alternative proposals appeared in The Chicago Sun-Times, a newspaper of general circulation, on July 21 and 28, 2014; and

WHEREAS, no alternative proposals were received by the deadline in the aforesaid notice; and

WHEREAS, the conveyance of the Property from the City to SERC in connection with the Project may qualify under the Donation Tax Credit Program as an eligible donation thereby generating affordable housing tax credits under Section 3805/7.28 of the Illinois Housing Development Act, 20 ILCS 3805/1, et seq., and under the implementing regulations set forth in

**EXHIBIT A LEGAL DESCRIPTION**

(subject to final title commitment and survey)

[To come]

COMMONLY KNOWN AS: 6151 SOUTH MICHIGAN AVENUE  
CHICAGO, ILLINOIS

PERMANENT INDEX NO.: 20-15-314-012-0000

**EXHIBIT B**

**REDEVELOPMENT AGREEMENT**

[ATTACHED]

THIS INSTRUMENT PREPARED BY, AND AFTER  
RECORDING, PLEASE RETURN TO:

Arthur Dolinsky, Senior Counsel City of  
Chicago  
Department of Law, Real Estate Division 121 North  
LaSalle Street, Room 600 Chicago, Illinois 60602 (312)  
744-0200

**AGREEMENT FOR THE SALE AND  
REDEVELOPMENT OF LAND**

(The Above Space For Recorder's Use Only)

**This AGREEMENT FOR THE SALE AND REDEVELOPMENT OF LAND**  
("Agreement") is made on or as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014 ("Effective  
Date"), by and among the CITY OF CHICAGO, an Illinois municipal corporation and home rule unit  
of local government ("City"), acting by and through its Department of Planning and Development  
(together with any successor department thereto, ("DPD")), having its principal offices at City Hall,  
121 North LaSalle Street, Chicago, Illinois 60602, and ST. EDMUND'S TOWER ANNEX, INC., an  
Illinois not-for-profit corporation ("Annex"), whose principal place of business is located at 6105  
South Michigan Avenue, Chicago, Illinois 60637, and ST. EDMUND'S REDEVELOPMENT  
CORPORATION, an Illinois not-for-profit corporation ("SERC"), whose principal place of business is  
located at 6105 South Michigan Avenue, Chicago, Illinois 60637.

**RECITALS**

WHEREAS, SERC desires to purchase from the City, for immediate reconveyance to Annex, the vacant real property commonly known as 6151 South Michigan Avenue, Chicago, Illinois 60637, and legally described on Exhibit A attached hereto (the "Property"); and

WHEREAS, Annex intends to develop on the Property a five-story, 34-unit, affordable rental apartment building for independent seniors, as more fully described on Exhibit B attached hereto (the "Project"); and

WHEREAS, the City Council, pursuant to an ordinance adopted on \_\_\_\_\_, 2014 (the "RDA Ordinance Date"), and published at pages \_\_\_\_\_ through \_\_\_\_\_ in the Journal of the Proceedings of the City Council of the City for

1

such date, authorized the sale of the Property to SERC, for immediate reconveyance to Annex, subject to the execution, delivery and recording of this Agreement; and

WHEREAS, the City's conveyance of the Property to SERC, may generate affordable housing tax credits under Section 3805/7.28 of the Illinois Housing Development Act, 20 ILCS 3805/1 et seq., and under the implementing regulations set forth in title 47, Part 355 of the Illinois Administrative Code, 47 Ill. Adm. Code 355.101 et seq.; and

WHEREAS, SERC, Annex and the City acknowledge that the implementation of the policies and provisions described in this Agreement will be of benefit to SERC, Annex and the City.

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 agree as follows:

**SECTION 1. INCORPORATION OF RECITALS.**

The recitals set forth above constitute an integral part of this Agreement and are incorporated herein by this reference with the same force and effect as if set forth herein as agreements of the parties.

**SECTION 2. PURCHASE PRICE.**

The City hereby agrees to sell, and SERC hereby agrees to purchase, upon and subject to the terms and conditions of this Agreement, the Property, for the sum of One Dollar (\$1.00) ("Purchase Price"), which will be paid by SERC to the City at the Closing (as defined in Section 4) in

cash or by certified check or cashier's check. Except as specifically provided herein to the contrary, SERC or Annex shall pay all escrow fees and other title insurance fees and closing costs. SERC acknowledges that the Purchase Price is approximately One Hundred Seventy-Nine Thousand Nine Hundred Ninety-Nine Dollars (\$179,999) less than the appraised fair market value of the Property (i.e., \$180,000) and that the City has only agreed to sell the Property to SERC for the Purchase Price because SERC and Annex have agreed to execute this Agreement and comply with its terms and conditions, including, without limitation, Sections 10A (Affordability Requirements) and 14 (Restrictions on Use).

**SECTION 3. EARNEST MONEY AND PERFORMANCE DEPOSIT.**

1 Earnest Money and Performance Deposit. There shall be no Earnest Money or Performance Deposit due under this Agreement.

2 Interest. [Intentionally omitted.] **SECTION 4.**

**CLOSING.**

2

The closing of the transaction contemplated by this Agreement (the "Closing") shall take place at the downtown offices of Greater Illinois Title Company, as agent for Chicago Title Insurance Company, 120 North LaSalle Street, Chicago, Illinois 60602, or such other title company as may be selected by SERC (the "Title Company"), on a date that is within thirty (30) days after SERC, Annex, or both, as applicable, have satisfied all conditions precedent set forth in Section 9, unless DPD, in its sole discretion, waives one or more such conditions, or on such other date as the parties mutually agree upon in writing (the "Closing Date"); provided, however, in no event shall the Closing occur any later than September 30, 2014 (the "Outside Closing Date"), unless DPD, in its sole discretion, extends the Outside Closing Date. On or before the Closing Date, as may be amended, the City shall deliver to the Title Company the Deed, all necessary state, county and municipal real estate transfer tax declarations, and an ALTA statement.

**SECTION 5. CONVEYANCE OF TITLE.**

1 Form of Deed. Without limiting the generality of the quitclaim nature of the deed, the City shall convey the Property to SERC by quitclaim deed ("Deed"), subject to the terms of this Agreement and the following (collectively, the "Permitted Exceptions"):

- a) the standard exceptions in an ALTA title insurance policy;
- b) general real estate taxes and any special assessments or other

taxes;

c) all easements, encroachments, covenants and restrictions of record and not shown of record;

d) such other title defects that may exist; and

e) any and all exceptions caused by the acts of SERC, Annex or their agents.

2 Recording Costs. SERC shall pay to record the Deed, this Agreement, and any other documents incident to the conveyance of the Property to SERC.

3 Reconveyance. Upon SERC's taking title to the Property, it shall immediately reconvey the Property to Annex.

## SECTION 6. TITLE AND SURVEY.

6.1 Annex acknowledges that Annex has received a commitment for an owner's policy of title insurance for the Property, File No. \_\_\_\_\_, with an effective date of \_\_\_\_\_, 2014 (the "Title Commitment"), from the Title Company, showing the City in title to the Property. Annex shall be solely responsible for and shall pay all costs associated with updating the Title Commitment (including all search,

3

continuation and later-date fees), and obtaining any title insurance, extended coverage or other endorsements it deems necessary. Annex shall also be solely responsible for and shall pay all costs associated with obtaining any survey it deems necessary. The City agrees to provide the Title Company with a completed ALTA owner's statement, and other transfer documents typically required by the Title Company and typically provided by the City (but expressly excluding, however, "gap" undertakings, title indemnities and similar liabilities) at or prior to the Closing. At the Closing, Annex shall deliver to the City a copy of the owner's policy of title insurance that it obtains with respect to the Property.

6.2 The City shall use reasonable efforts to obtain the waiver or release of any delinquent real estate taxes or tax liens on the Property prior to the Closing Date, to the extent such taxes or tax liens can be waived or released through submission of an abatement letter to the Cook County Treasurer, a motion to vacate a tax sale or a petition for exemption. In addition, the City shall use reasonable efforts to obtain the release of any judgment liens on the Property prior to the Closing Date. If the City is unable to obtain the waiver or release of any such tax liens or is unable to cause the Title Company to insure over such tax liens, or is unable to obtain the release of such judgment liens, or if the Property is encumbered with any other unpermitted exceptions or exceptions that would adversely affect the use and insurability of the Property for the development of the Project, SERC shall have the option to do one of the following: (a) accept title to the Property subject to the unpermitted exceptions, which shall then become Permitted Exceptions, without reduction in the Purchase Price; or (b) terminate this Agreement by delivery of written notice to the City at least fourteen (14) days prior to the Closing Date, in which event, this Agreement shall be null and void

and, except as otherwise specifically provided herein, neither party shall have any further right, duty or obligation hereunder. If SERC elects not to terminate this Agreement as aforesaid, SERC agrees to accept title subject to the unpermitted exceptions.

## **SECTION 7. BUILDING PERMITS AND OTHER GOVERNMENTAL APPROVALS.**

Annex shall apply for all applicable building permits and other required permits and approvals for the construction of the Project no later than fourteen (14) days after the RDA Ordinance Date, unless DPD, in its reasonable discretion, extends such application date, and shall pursue such permits and approvals in good faith and with all due diligence.

## **SECTION 8. PROJECT BUDGET AND PROOF OF FINANCING.**

The total budget for the Project is currently estimated to be Six Million Five Hundred Seventy-Seven Thousand Ninety-Eight and 00/100 Dollars (\$6,577,098.00) (the "Preliminary Project Budget"). Not less than fourteen (14) days prior to the Closing Date, Annex shall submit to DPD for approval a final Project budget which is materially consistent with the Preliminary Project Budget (the "Final Budget") and evidence of funds adequate to finance the construction of the Project ("Proof of Financing"). The Proof of Financing shall include binding commitment letters from Annex's lenders, if

4

any, and evidence of Annex's ability to make an equity contribution in the amount necessary to fill the gap between the Final Budget and any approved financing.

## **SECTION 9. CONDITIONS TO THE CITY'S OBLIGATION TO CLOSE.**

The obligations of the City under this Agreement are contingent upon each of the following being satisfied at least fourteen (14) days prior to the Closing Date, or on such other date as may be specified below, unless waived in writing by the Commissioner of DPD (the "Commissioner"):

1 Final Governmental Approvals. Annex shall have delivered to the City evidence of its application for of all applicable building permits and other final governmental approvals necessary to construct the Project. After the Closing Date, Annex shall provide DPD with copies of the actual permits issued and, in any event, shall obtain all requisite permits prior to commencing construction of the Project.

2 Budget and Proof of Financing. The City shall have approved Annex's Final Budget and Proof of Financing.

3 Simultaneous Loan Closing. On the Closing Date, Annex shall simultaneously close or draw down on any construction financing approved pursuant to this Agreement and be in a position to commence construction of the Project not later than the construction commencement date set forth in Section 12.

4 Insurance. Annex shall have delivered to the City evidence of insurance as follows: (a) commercial general liability insurance with a combined single limit of not less than \$1,000,000.00 per

occurrence for bodily injury, personal injury and property damage liability with the City named as an additional insured; (b) automobile liability insurance with limits of not less than \$1,000,000.00 per occurrence, combined single limit for bodily injury and property damage; (c) worker's compensation and occupational disease insurance in statutory amounts covering all employees and agents who are to do any work on the Property; and (d) builder's risk or property insurance. All insurance policies shall be from insurance companies authorized to do business in the State of Illinois, and shall remain in effect until completion of all activity on the Property. Annex shall deliver duplicate policies or certificates of insurance to the City prior to commencing any activity on the Property. Annex expressly understands and agrees that any coverage and limits furnished by Annex shall in no way limit Annex's liabilities and responsibilities (including indemnification) set forth in this Agreement. With respect to property insurance, the City will accept an ACORD 28 form. With respect to liability insurance, the City will accept an ACORD 25 form, together with a copy of the endorsement that is added to Annex's policy showing the City as an additional insured. Upon request, Annex shall provide a copy of the declaration page for each policy listed on the ACORD 25 and ACORD 28 forms.

The City acknowledges that Annex's lenders and investors also will be designated as loss payees, and that the City's status as loss payee will be subordinate

5

to such lenders and investors. The City will follow the written directions of loss payees with priority relating to the disposition and use of any insurance proceeds that the City may jointly share with such prior loss payees as a result of their collective status as loss payees.

5 Legal Opinion. Annex and SERC each shall, at the City's request, deliver to the City a legal opinion in a form and substance reasonably acceptable to the City's Corporation Counsel.

6 Due Diligence.

- a) SERC shall have delivered to the City due diligence searches in its name (UCC, State and federal tax liens, pending litigation and judgments in Cook County and the U.S. District Court for the Northern District of Illinois, and bankruptcy), showing no unacceptable liens, litigation, judgments or filings, as reasonably determined by the City's Corporation Counsel.
- b) Annex shall have delivered to the City due diligence searches in its name (UCC, State and federal tax liens, pending litigation and judgments in Cook County and the U.S. District Court for the Northern District of Illinois, and bankruptcy), showing no unacceptable liens, litigation, judgments or filings, as reasonably determined by the City's Corporation Counsel.

7 Subordination Agreement. On the Closing Date, and prior to recording any mortgage approved pursuant to Section 9.2, Annex shall, at the City's request, deliver to the City a subordination agreement in which the construction lender agrees to subordinate the lien of its mortgage to the covenants running with the land, or such other subordination assurance as the Corporation Counsel shall deem acceptable (each such agreement, a "Subordination Agreement").

8 MBEAA/BE Compliance Plan. Annex and Annex's general contractor and all major subcontractors shall meet with staff from DPD regarding compliance with the MBEAA/BE, city residency hiring, prevailing wage and other requirements set forth in Section 23, and at least seven (7) days prior to the Closing Date, the City shall have approved Annex's compliance plan in accordance with Section 23.4.

9 Representations and Warranties. On the Closing Date, each of the representations and warranties of Annex and SERC in this Agreement shall be true and correct.

10 Organization and Authority Documents.

(a) SERC shall have delivered to the City SERC's articles of incorporation, including all amendments thereto, as furnished and certified by the Illinois Secretary of State; SERC's by-laws, as certified by the secretary of SERC; resolutions authorizing SERC to execute and deliver this Agreement and any

6

other documents required to complete the transaction contemplated by this Agreement and to perform its obligations under this Agreement; a certificate of good standing from the Illinois Secretary of State dated no more than thirty (30) days- prior to the Closing Date; and such other corporate authority and organizational documents as the City may reasonably request.

(b) Annex shall have delivered to the City Annex's articles of incorporation, including all amendments thereto, as furnished and certified by the Illinois Secretary of State; Annex's by-laws, as certified by the secretary of Annex; resolutions authorizing Annex to execute and deliver this Agreement and any other documents required to complete the transaction contemplated by this Agreement and to perform its obligations under this Agreement; a certificate of good standing from the Illinois Secretary of State dated no more than thirty (30) days prior to the Closing Date; and such other corporate authority and organizational documents as the City may reasonably request.

11 Performance Guarantee. Annex or its general contractor shall have delivered to the City either (a) a performance and payment bond in the dollar amount of Annex's construction contract, issued by a surety authorized to do business in the State of Illinois and naming the City as an additional obligee or (b) an unconditional, irrevocable standby letter of credit, naming the City as beneficiary, in the dollar amount of the Final Budget. The form of the performance and payment bond and the form of the letter of credit are subject to the approval of the City's Corporation Counsel.

12 Other Obligations. On the Closing Date, Annex and SERC shall have performed all of the other obligations required to be performed by Annex and SERC under this Agreement as and when required under this Agreement. If any of the conditions in this Section 9 have not been satisfied to the City's reasonable satisfaction within the time periods provided for herein, or waived by DPD in writing, the City may, at its option, terminate this Agreement by delivery of written notice to Annex and

SERC at any time after the expiration of the applicable time period, in which event, this Agreement shall be null and void and, except as otherwise specifically provided herein, neither party shall have any further right, duty or obligation hereunder. Any forbearance by the City in exercising its right to terminate this Agreement upon a default hereunder shall not be construed as a waiver of such right.

## **SECTION 10. CONSTRUCTION REQUIREMENTS.**

10.1 Site Plans and Rental Space. Annex shall construct the Project on the Property in accordance with the final design development drawings and specifications prepared by Norr Illinois, 325 North LaSalle Street, Suite 500, Chicago, Illinois 60654, which have been approved by DPD and the index of which plans and the table of contents for the accompanying specifications are attached hereto as Exhibit C ("Working Drawings and Specifications"). No material deviation from the Working Drawings and Specifications may be made without the prior written approval of DPD. If Annex submits and DPD approves revised design development drawings and

7

specifications after the date of this Agreement, the term "Working Drawings and Specifications" as used herein shall refer to the revised design development drawings and specifications upon DPD's written approval of the same.

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

3 Barricades and Signs. Promptly after the execution of this Agreement, Annex shall, at its sole cost and expense, erect and maintain such signs as the City may reasonably require identifying the Property as a City redevelopment project. Prior to the commencement of any construction activity requiring barricades, Annex shall install barricades of a type and appearance satisfactory to the City and constructed in compliance with all applicable federal, state and local statutes, laws, ordinances, codes, rules, regulations, orders and judgments, including, without limitation, Sections 7-28 and 11-4 of the Municipal Code of Chicago relating to waste disposal (collectively, "Laws"). DPD shall have the right to approve the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades and all signage, which approval shall not be unreasonably withheld or delayed. Annex shall erect all signs and barricades so as not to interfere with or affect any bus stop or train station in the vicinity of the Property.

4 Survival. The provisions of this Section 10 shall survive the Closing and shall be in effect until the City has provided Annex with a Certificate of Completion.

## **SECTION 10A. AFFORDABILITY REQUIREMENTS.**

During the ten (10) year period following the date of the City's Certificate of Completion, Annex shall comply with the following "Affordability Requirements":

(a) Annex must rent all thirty-four (34) residential units ("Residential Units") in the apartment building constructed on the Property (i) to tenants whose household incomes, adjusted for family size, do not exceed sixty percent (60%) of the Chicago Primary Metropolitan Statistical Area median income ("AMI"), as determined by the United States Department of Housing and Urban Development (each, a "Qualified Resident" and together, the "Qualified Residents") and (ii) at a price that does not exceed thirty percent (30%) of each such Qualified Resident's household income for the current year ("Affordable Price") (each Residential Unit that is rented at an Affordable Price to a Qualified Resident is an "Affordable Unit").

8

b) Qualified Residents who have continuously occupied an Affordable Unit will continue to be considered Qualified Residents for the purposes of this Agreement even if that Qualified Resident's household income rises above sixty percent (60%) of AMI; provided, however, that the household income must not exceed one hundred twenty percent (120%) of AMI on the date such tenant signs his/her Tenant Certification Form. A copy of such form may be obtained from DPD.

c) Each Residential Unit which becomes available for rent must be leased (at an Affordable Price) to and occupied by a new tenant who is a Qualified Resident.

d) On an annual basis, or more frequently if requested by the DPD, Annex shall deliver to DPD updated Tenant Certification Forms for each renter of a Residential Unit. On an annual basis, or more frequently if requested by DPD, Annex shall deliver to DPD an "Annual Owner's Certification" in a format approved by DPD. A copy of the Tenant Certification Form and the Annual Owner's Certification may be obtained from DPD.

## **SECTION 11. LIMITED APPLICABILITY.**

Any approval given by DPD pursuant to this Agreement is for the purpose of this Agreement only and does not constitute the approval required by the City's Department of Buildings or any other City department, nor does such DPD approval constitute an approval of the quality, structural soundness or safety of any improvements located or to be located on the Property, or the compliance of said improvements with any Laws, private covenants, restrictions of record, or any agreement affecting the Property or any part thereof.

## **SECTION 12. COMMENCEMENT AND COMPLETION OF PROJECT**

Subject to the receipt of all applicable government approvals, Annex shall commence construction of the Project no later than October 31, 2014, and shall complete the Project (as reasonably evidenced by the issuance of the Certificate of Completion) no later than March 31, 2016. The Commissioner shall have discretion to extend any of the construction commencement and completion dates for good cause shown by issuing a written extension letter. Annex shall give written notice to the City within five (5) days after it commences construction of the Project. Annex shall

construct the Project in accordance with the Working Drawings and Specifications, and all Laws and covenants and restrictions of record.

### **SECTION 13. CERTIFICATE OF COMPLETION.**

Upon the completion of the Project in accordance with this Agreement, Annex shall request from the City a certificate of completion ("Certificate of Completion").

#### **9**

Within forty-five (45) days after receipt of a written request by Annex for a Certificate of Completion, the City shall provide Annex with either the Certificate of Completion or a written statement indicating in adequate detail how Annex has failed to complete the Project in compliance with this Agreement, or is otherwise in default, and what measures or acts are necessary, in the sole opinion of the City, for Annex to take or perform in order to obtain the Certificate of Completion. If the City requires additional measures or acts to assure compliance, Annex shall resubmit a written request for the Certificate of Completion upon compliance with the City's response. The Certificate of Completion shall be in recordable form, and shall, upon recording, constitute a conclusive determination of satisfaction and termination of the covenants in this Agreement and the Deed with respect to Annex's obligations to construct the Project. The Certificate of Completion shall not, however, constitute evidence that Annex has complied with any Laws relating to the construction of the Project, and shall not serve as any "guaranty" as to the quality of the construction.

### **SECTION 14. RESTRICTIONS ON USE.**

Annex and SERC each agrees that it:

1 Shall devote the Property solely to the Project, including the affordability requirements associated therewith during the period commencing on the Effective Date and expiring on the date that is ten (10) years after the date on which the City issues the Certificate of Completion.

2 Shall not discriminate on the basis of race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, or source of income in the use or occupancy of the Property or any part thereof or the Project or any part thereof.

### **SECTION 15. PROHIBITION AGAINST SALE OR TRANSFER OF PROPERTY OR CERTAIN CHANGES IN CORPORATE STRUCTURE.**

15.1 During the period commencing on the Effective Date and expiring on the date that is ten (10) years after the date on which the City issues the Certificate of Completion for the Project, as provided herein, Annex may not, without the prior written consent of DPD, which consent shall be in DPD's sole discretion: (a) directly or indirectly sell, transfer or otherwise dispose of the Property or any part thereof or any interest therein or Annex's controlling interests therein (including without limitation, a transfer by assignment of any beneficial interest under a land trust) except (i) transfers by foreclosure or deed in lieu of foreclosure or UCC sale of the Illinois Housing Development Authority's ("IHDA") security interests in the Property or the ownership interests in Annex granted as security for the donation tax credits made by IHDA, if such transferee or assignee is not prohibited from doing

business with the City and has provided to the City such disclosures as DPD may reasonably require; and (ii) Annex may lease the Affordable Units in the ordinary course of business; or (b) directly or indirectly assign this Agreement. With respect to any proposed sale, transfer or

10

disposition, Annex shall provide the City copies of any and all sales contracts, legal descriptions, descriptions of intended use of the parcels to be sold, proposed use of Property and other documentation as the City may reasonably require. Annex acknowledges and agrees that DPD may withhold its consent under (a) or (b) above if, among other reasons, the proposed purchaser, transferee or assignee (or such entity's principal officers or directors) is in violation of any Laws, or if Annex fails to submit sufficient evidence of the financial responsibility, business background and reputation of the proposed purchaser, transferee or assignee. If Annex is a business entity, no principal party of Annex (e.g., a general partner, member, manager or shareholder) may sell, transfer or assign any of its interest in the entity prior to the date that is ten (10) years following the issuance of the Certificate of Completion to anyone other than another principal party, without the prior written consent of DPD, which consent shall be in DPD's sole discretion. Annex must disclose the identity of all limited partners to the City at the time such limited partners obtain an interest in Annex. The provisions of this Section 15 shall not prohibit Annex from transferring or conveying the Property to an Illinois land trust of which Annex is the sole beneficiary.

15.2 Prior to the date that is ten (10) years following the issuance of the Certificate of Completion, Annex shall not, without the City's prior written consent, which shall be in the City's sole discretion: (i) merge, liquidate or consolidate, (ii) permit the direct or indirect transfer any ownership interests in Annex, (iii) enter into any transaction outside the ordinary course of business, (iv) assume or guarantee the obligations of any other person or entity, or (v) enter into a transaction that, in the City's sole determination, would cause a material and detrimental change to Annex's condition.

**SECTION 16. LIMITATION UPON ENCUMBRANCE OF PROPERTY.**

Prior to the issuance of the Certificate of Completion, Annex shall not, without DPD's prior written consent, which shall be in DPD's sole discretion, engage in any financing or other transaction which would create an encumbrance or lien on the Property, except for (i) any mortgage or other security documents approved pursuant to Section 9.2, and (ii) any encumbrances set forth in Schedule B of the owner's title insurance policy issued by the Title Company as of the date hereof.

**SECTION 17. MORTGAGEES NOT OBLIGATED TO CONSTRUCT.**

Notwithstanding any other provision of this Agreement or of the Deed, the holder of any mortgage authorized by this Agreement (or any affiliate of such holder or any other permitted successor by foreclosure or deed in lieu of foreclosure) shall not itself be obligated to construct or complete the Project, or to guarantee such construction or completion, but shall be bound by the other covenants running with the land specified in Section 18 and shall, prior to recording any mortgage approved pursuant to Section 9.2, execute and record a Subordination Agreement (as defined in Section 9.7). If any such mortgagee or its affiliate succeeds to Annex's interest in the Property prior to the issuance of the Certificate of Completion, whether by foreclosure, deed-in-lieu of

foreclosure or otherwise, and thereafter transfers its interest in the Property to another party, such transferee shall be obligated to complete the Project, and shall also be bound by the other covenants running with the land specified in Section 18, however, the Project completion date set forth in Section 12 shall be reasonably adjusted by the City to take into account the foreclosure process.

**SECTION 18. COVENANTS RUNNING WITH THE LAND.**

The parties agree, and the Deed shall so expressly provide, that the covenants provided in Section 12 (Commencement and Completion of Project), Section 14 (Restrictions on Use), Section 15 (Prohibition Against Sale or Transfer of Property), Section 16 (Limitation Upon Encumbrance of Property) and Section 22.3 (Environmental Conditions) will be covenants running with the land, binding on Annex and its successors and assigns (subject to the limitation set forth in Section 17 above as to any permitted mortgagee) to the fullest extent permitted by law and equity for the benefit and in favor of the City, and shall be enforceable by the City. The covenants provided in Section 12, Section 15 and Section 16 shall terminate upon the issuance of the Certificate of Completion. The covenants contained in Section 10A and Section

1 shall remain in effect until the date that is ten (10) years following the date on which the City issues the Certificate of Completion. The covenants contained in Section

2 shall remain in effect without limitation as to time.

**SECTION 19. PERFORMANCE AND BREACH.**

1 Time of the Essence. Time is of the essence in Annex's and SERC's performance of each of their obligations under this Agreement.

2 Permitted Delays. Annex and SERC shall not be considered in breach of their obligations under this Agreement in the event of a delay due to unforeseeable causes beyond Annex's or SERC's, as applicable, control and without SERC's or Annex's fault or negligence, including, without limitation, acts of God, acts of the public enemy, acts of the United States government, fires, floods, epidemics, quarantine restrictions, strikes, embargoes and unusually severe weather or delays of subcontractors due to such causes. The time for the performance of the obligations shall be extended only for the period of the delay and only if Annex or SERC, as applicable, within twenty (20) days after the beginning of any such delay, submits to the Commissioner a written request for an extension.

3 Cure. If Annex or SERC defaults in the performance of its obligations under this Agreement, Annex or SERC, as applicable, shall have sixty (60) days after written notice of default from the City to cure the default, or such longer period as shall be reasonably necessary to cure such default provided Annex or SERC, as applicable, promptly commences such cure and thereafter diligently pursues such cure to completion (so long as continuation of the default does not create material risk to the Project or to persons using the Project). Notwithstanding the foregoing, no notice or cure period shall apply to defaults under Section 19.4(c), (e) and (q).

19.4 Event of Default. The occurrence of any one or more of the following shall constitute an "Event of Default" under this Agreement:

(a) SERC or Annex makes or furnishes a warranty, representation, statement or certification to the City (whether in this Agreement, an Economic Disclosure Statement and Affidavit, or another document) that is not true and correct.

b) A petition is filed by or against Annex or SERC under the Federal Bankruptcy Code or any similar state or federal law, whether now or hereafter existing, which is not vacated, stayed or set aside within thirty (30) days after filing.

c) Annex fails to commence or complete the Project in accordance with the time line outlined in Section 12 above, or Annex abandons or substantially suspends construction of the Project.

d) Annex fails to timely pay real estate taxes or assessments affecting the Property or any part thereof when due, or places thereon any encumbrance or lien unauthorized by this Agreement, or suffers or permits any levy or attachment, mechanic's, laborer's, material supplier's, or any other lien or encumbrance unauthorized by this Agreement to attach to the Property unless bonded or insured over.

e) Except as otherwise permitted pursuant to Section 15, Annex or SERC makes an assignment, pledge, unpermitted financing, encumbrance, transfer or other disposition in violation of this Agreement.

f) There is a material and adverse change in Annex's or SERC's financial condition or operations, which change, in the City's reasonable opinion, affects the ability of SERC or Annex to meet its obligations under this Agreement.

g) SERC fails to close by the Outside Closing Date, as such date may be extended by DPD in its sole discretion.

h) Annex or SERC fails to perform, keep or observe any of the other covenants, conditions, promises, agreements or obligations under this Agreement or any other written agreement entered into with the City with respect to the Project and such failure continues beyond the expiration of any applicable cure periods.

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 and re-vesting the Property in the City, the City shall send notice of such intended exercise to the parties identified in Section 25

and such Annex's lenders and the investor member(s) in Annex shall have the right (but not the obligation) to cure such an Event of Default within thirty (30) days after the expiration of the cure period, if any, granted to Annex. If the default is not capable of being cured within the thirty (30) day period, then provided Annex's lenders and the investor member(s) in Annex have commenced to cure the default and is diligently proceeding to cure the default within the thirty day period, and thereafter diligently prosecutes such cure through to completion, and funding for the Project continues unabated, then the thirty day period shall be extended for the length of time that is reasonably necessary to cure the default. If the default is not cured in the time period provided for herein, the City may institute such proceedings at law or in equity as may be necessary or desirable to cure and remedy the default, including but not limited to, proceedings to compel specific performance.

5 Prior to Closing. If an Event of Default occurs prior to the Closing, and the default is not cured in the time period provided for in Section 19.3 above, the City may terminate this Agreement, institute any action or proceeding at law or in equity against Annex and SERC.

6 After Closing. If an Event of Default occurs after the Closing but prior to the issuance of the Certificate of Completion, and the default is not cured in the time period provided for in Section 19.3 above, Annex shall deliver to the City a special warranty deed for the Property in recordable form naming the City as grantee ("Reconveyance Deed"), and the City may terminate this Agreement, and exercise any and all remedies available to it at law or in equity, including, without limitation, the right to re-enter and take possession of the Property, terminate the estates conveyed to Annex and SERC, and re-vest title to the Property in the City pursuant to the Reconveyance Deed (the "Right of Reverter"); provided, however, the City's Right of Reverter shall be limited by, and shall not defeat, render invalid, or limit in any way, the lien of any mortgage authorized by this Agreement. Notwithstanding the foregoing, ten (10) years after the issuance of the Certificate of Completion, the City's Right of Reverter shall no longer be enforceable but the City shall be entitled to all other remedies, including, without limitation, specific enforcement of the covenants that run with the land that shall survive any termination and/or release of this Agreement, but excluding damages. If Annex fails to tender to the City the Reconveyance Deed as provided in this Section 19.6, the City may record a notice of reversion and Annex acknowledges and agrees that upon the recording of such notice of reversion title to the Property shall be deemed to have been conveyed to, and title shall re-vest in, the City. If the Reconveyance Deed or notice of reversion is recorded by the City, Annex shall be responsible for all real estate taxes and assessments which accrued during the period the Property was owned by Annex, and shall cause the release of all liens or encumbrances placed on the Property during the period of time the Property was owned by Annex.

7 Resale of the Property. Upon the re-vesting in the City of title to the Property as provided in Section 19.6, the City may complete the Project or convey the Property, subject to any first mortgage lien, to a qualified and financially responsible

party reasonably acceptable to the first mortgagee, who shall assume the obligation of completing the Project or such other improvements as shall be satisfactory to DPD, and otherwise comply with the covenants that run with the land as specified in Section 18.

19.8 Disposition of Resale Proceeds. If the City sells the Property as provided for in Section 19.7, the net proceeds from the sale, after payment of all amounts owed under any mortgage liens authorized by this Agreement in order of lien priority, shall be utilized to reimburse the City for:

- a) costs and expenses incurred by the City (including, without limitation, salaries of personnel) in connection with the recapture, management and resale of the Property (less any income derived by the City from the Property in connection with such management); and
- b) all unpaid taxes, assessments, and water and sewer charges assessed against the Property; and
- c) any payments made (including, without limitation, reasonable attorneys' fees and court costs) to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of Annex or SERC; and
- d) any expenditures made or obligations incurred with respect to construction or maintenance of the Project; and
- e) any other amounts owed to the City by Annex and SERC.

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

## **SECTION 20. CONFLICT OF INTEREST; CITY'S REPRESENTATIVES NOT INDIVIDUALLY LIABLE.**

Annex and SERC each represents and warrants that no agent, official or employee of the City shall have any personal interest, direct or indirect, in Annex, SERC, this Agreement, the Property or the Project, nor shall any such agent, official or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership, association or other entity in which he or she is directly or indirectly interested. No agent, official or employee of the City shall be personally liable to Annex or SERC 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 Annex, SERC or successor or with respect to any commitment or obligation of the City under the terms of this Agreement.

## **SECTION 21. INDEMNIFICATION.**

Annex and SERC each agrees to indemnify, defend and hold the City harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses (including, without limitation, reasonable attorneys' fees and court costs) suffered or incurred by the City arising from or in connection with: (a) the failure of Annex or SERC to perform its obligations under this Agreement; (b) the failure of Annex or SERC or any contractor or other agent, entity or

individual acting under the control or at the request of Annex or SERC (collectively, "Agent") to pay contractors, subcontractors or material suppliers in connection with the construction and management of the Project; (c) any misrepresentation or omission made by Annex or SERC or any Agent; (d) the failure of Annex or SERC to redress any misrepresentations or omissions in this Agreement or any other agreement relating hereto; and (e) any activity undertaken by Annex, SERC or any Agent on the Property prior to or after the Closing. This indemnification shall survive the Closing or any termination of this Agreement (regardless of the reason for such termination).

## **SECTION 22. INSPECTION; CONDITION OF PROPERTY AT CLOSING.**

1 "As Is" Sale. THE CITY MAKES NO COVENANT, REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND, AS TO THE STRUCTURAL, PHYSICAL OR ENVIRONMENTAL CONDITION OF THE PROPERTY OR THE SUITABILITY OF THE PROPERTY FOR ANY PURPOSE WHATSOEVER, AND SERC AGREES TO ACCEPT THE PROPERTY IN ITS "AS IS", "WHERE IS" AND "WITH ALL FAULTS" CONDITION AND SERC AGREES TO ACCEPT THE PROPERTY IN SUCH CONDITION AND ON SUCH TERMS. ANNEX AND SERC EACH ACKNOWLEDGE THAT IT HAS HAD ADEQUATE OPPORTUNITY TO INSPECT AND EVALUATE THE STRUCTURAL, PHYSICAL AND ENVIRONMENTAL CONDITION AND RISKS OF THE PROPERTY AND ACCEPTS THE RISK THAT ANY INSPECTION MAY NOT DISCLOSE ALL MATERIAL MATTERS AFFECTING THE PROPERTY. ANNEX AND SERC EACH ACKNOWLEDGE THAT IT IS RELYING SOLELY UPON ITS OWN INSPECTION AND OTHER DUE DILIGENCE ACTIVITIES AND NOT UPON ANY INFORMATION (INCLUDING, WITHOUT LIMITATION, ENVIRONMENTAL STUDIES OR REPORTS OF ANY KIND) PROVIDED BY OR ON BEHALF OF THE CITY OR ITS AGENTS OR EMPLOYEES WITH RESPECT THERETO. ANNEX AND SERC EACH AGREE THAT IT IS ANNEX'S AND SERC'S SOLE RESPONSIBILITY AND OBLIGATION TO PERFORM AT THEIR EXPENSE THE ENVIRONMENTAL REMEDIATION WORK (AS HEREINAFTER DEFINED) AND TAKE SUCH OTHER ACTION AS IS NECESSARY TO PUT THE PROPERTY IN A CONDITION WHICH IS SUITABLE FOR ITS INTENDED USE. "Environmental Remediation Work" shall mean all investigation, sampling, monitoring, testing, removal (including, excavation, transportation and disposal), response, storage, remediation, treatment and other activities necessary for the performance of the Project, all in accordance with all requirements of the IEPA, and all applicable Laws, including, without limitation, all applicable Environmental Laws.

2 Right of Entry. Promptly following Annex's request, the City shall grant Annex the right, at its sole cost and expense, to enter the Property for a period of thirty

### **16**

(30) days (the "Inspection Period") pursuant to a Right of Entry Agreement in form and substance reasonably acceptable to the City to inspect the same, perform surveys, environmental assessments, soil, engineering studies and any other due diligence it deems necessary or desirable to satisfy itself, its lenders or investors as to the condition of the Property. If Annex determines that it is not satisfied, in its sole discretion, then Annex or SERC may terminate this Agreement by written notice to the City within thirty (30) days after the expiration of the Inspection Period, whereupon this Agreement shall be null and void and, except as otherwise specifically provided, neither party shall have any further right, duty or obligation hereunder. If SERC and Annex elect not to terminate this Agreement pursuant to this Section 22.2, SERC and Annex shall be deemed satisfied with the condition of the

Property.

22.3 Indemnity. SERC and Annex each hereby waives and releases, and indemnifies the City from and against, any claims and liabilities relating to or arising from the structural, physical or environmental condition of the Property, including, without limitation, claims arising under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), and shall undertake and discharge all liabilities of the City arising from any structural, physical or environmental condition that existed on the Property prior to the Closing, including, without limitation, liabilities arising under CERCLA. SERC hereby acknowledges that, in purchasing the Property, SERC is relying solely upon its own inspection and other due diligence activities and not upon any information (including, without limitation, environmental studies or reports of any kind) provided by or on behalf of the City or its agents or employees with respect thereto. SERC shall perform such studies and investigations, conduct such tests and surveys, and engage such specialists as SERC deems appropriate to evaluate fairly the structural, physical and environmental condition and risks of the Property. If, after the Closing, the structural, physical and environmental condition of the Property is not in all respects entirely suitable for its intended use, it shall be SERC's sole responsibility and obligation to take such action as is necessary to put the Property in a condition which is suitable for its intended use. The provisions of this Section 22.3 shall survive the Closing.

### **SECTION 23. ANNEX'S EMPLOYMENT OBLIGATIONS.**

23.1 Employment Opportunity. Annex and SERC agree, and shall contractually obligate their various contractors, subcontractors and any affiliate of Annex or SERC operating on the Property (collectively, the "Employers" and individually, an "Employer") to agree, that with respect to the provision of services in connection with the construction of the Project:

(a) Annex, SERC and any Employer shall NOT discriminate against any employee or applicant for employment based upon race, religion, color, sex, gender identity, 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, Section 2-160-010 et seq. of the Municipal Code of Chicago, as amended from time to

17

time (the "Human Rights Ordinance"). Annex, SERC and each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon the foregoing grounds, 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. Annex, SERC and 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, Annex, SERC and each Employer, in all print solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon the foregoing grounds.

b) To the greatest extent feasible, Annex, SERC and each Employer shall present opportunities for training and employment of low and moderate income residents of the City, and provide that contracts for work in connection with the construction of the Project be awarded to business concerns which are located in or owned in substantial part by persons residing in, the City.

c) Annex, SERC and each Employer shall comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including, without limitation, the 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) Annex and SERC, in order to demonstrate compliance with the terms of this Section 23.1, shall cooperate with and promptly and accurately respond to reasonable 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) Annex, SERC and each Employer shall include the foregoing provisions of subparagraphs (a) through (d) in every contract entered into in connection with the construction of 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 23.1 shall be a basis for the City to pursue remedies under the provisions of Section 19.

## 23.2 City Resident Employment Requirement.

### 18

a) With respect to the Project, Annex agrees, and shall contractually obligate each Employer to agree, that during the construction of the Project, Annex and each Employer shall comply with the minimum percentage of total worker hours performed by actual residents of the City of Chicago as specified in Section 2-92-330 of the Municipal Code of Chicago (at least fifty percent); provided, however, that in addition to complying with this percentage, Annex and each Employer shall be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions.

b) Annex and the Employers may request a reduction or waiver of this minimum percentage level of Chicagoans as provided for in Section 2-92-330 of the Municipal Code of Chicago in accordance with standards and procedures developed by the chief procurement officer of the City of Chicago.

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

d) Annex and the Employers shall provide for the maintenance of adequate employee residency records to ensure that actual Chicago residents are employed on the construction of the Project. Annex and the Employers shall maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

e) Annex and the Employers shall submit weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) to 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 Annex or Employer hired the employee should be written in after the employee's name.

f) Annex and the Employers shall provide full access to their employment records to the chief procurement officer, DPD, the Superintendent of the Chicago Police Department, the inspector general, or any duly authorized representative thereof. Annex and the Employers shall maintain all relevant personnel data and records for a period of at least three (3) years after the issuance of the Certificate of Completion.

g) At the direction of DPD, Annex and the Employers shall provide affidavits and other supporting documentation to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

h) Good faith efforts on the part of Annex and the Employers to provide work for 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

19

achievement of the requirements of this Section 23.2 concerning the worker hours performed by actual Chicago residents.

(i) If the City determines that Annex or an Employer failed to ensure the fulfillment of the requirements of this Section 23.2 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 23.2. If such non-compliance is not remedied in accordance with the breach and cure provisions of Section 19.3, the parties agree that 1/20 of 1 percent (.05%) of the aggregate hard construction costs set forth in the Final Budget shall be surrendered by Annex and for the Employers 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 Annex and/or the other Employers or employees to prosecution.

(j) 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.

(k) Annex shall cause or require the provisions of this Section 23.2 to be included in all construction contracts and subcontracts related to the construction of the Project.

23.3 Annex's MBEAA/BE Commitment. With respect to the Project, Annex 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 construction of the Project:

(a) Consistent with the findings which support, as applicable, (i) the Minority-Owned and Women-Owned Business Enterprise Procurement Program, Section 2-92-420 et seq., Municipal Code of Chicago (the "Procurement Program"), and (ii) the Minority- and Women-Owned Business Enterprise Construction Program, Section 2-92-650 et seq., Municipal Code of Chicago (the "Construction Program." and collectively with the Procurement Program, the "MBEAA/BE Program"), and in reliance upon the provisions of the MBEAA/BE Program to the extent contained in, and as qualified by, the provisions of this Section 23.3, during the course of construction of the Project, at least 24% of the aggregate hard construction costs shall be expended for contract participation by minority-owned businesses and at least 4% of the aggregate hard construction costs shall be expended for contract participation by women-owned businesses.

20

(b) For purposes of this Section 23.3 only:

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

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

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

c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code of Chicago, Annex's MBEAA/BE commitment may be achieved in part by Annex's status as an MBE or WBE (but only to

the extent of any actual work performed on the Project by Annex) 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 Annex 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 construction of the Project to one or more MBEs or WBEs; by the purchase of materials or services used in the construction of 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 Annex's MBEAA/BE commitment as described in this Section 23.3. In accordance with Section 2-92-730, Municipal Code of Chicago, Annex shall not substitute any MBE or WBE general contractor or subcontractor without the prior written approval of DPD.

d) Annex shall deliver quarterly reports to the City's monitoring staff during the construction of the Project describing its efforts to achieve compliance with this MBEAA/BE commitment. Such reports shall include, inter alia, the name and business address of each MBE and WBE solicited by Annex or the general

21

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 construction of 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 Annex's compliance with this MBE/WBE commitment. Annex shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs in connection with the construction of the Project for at least five (5) years after completion of the Project, and the City's monitoring staff shall have access to all such records maintained by Annex, on prior notice of at least five (5) business days, to allow the City to review Annex's compliance with its commitment to MBEAA/BE participation and the status of any MBE or WBE performing any portion of the construction of the Project.

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

f) Any reduction or waiver of Annex's MBEAA/BE commitment as described in this Section 23.3 shall be undertaken in accordance with Sections 2-92-450 and 2-92-730, Municipal Code of Chicago, as applicable.

23.4 Pre-Construction Conference and Post-Closing Compliance Requirements. Prior to commencement of construction, Annex and Annex's general contractor and all major subcontractors shall meet with DPD monitoring staff regarding compliance with all Section 23 requirements. The City and Annex acknowledge that such meeting has occurred. During this pre-construction meeting, Annex shall present its plan to achieve its obligations under this Section 23, the sufficiency of which

the City's monitoring staff shall approve as a precondition to the Closing. During the construction of the Project, Annex shall submit all documentation required by this Section 23 to the City's monitoring staff, including, without limitation, the following: (a) subcontractor's activity report; (b) contractor's certification concerning labor standards and prevailing wage requirements; (c) contractor letter of understanding; (d) monthly utilization report; (e) authorization for payroll agent; (f) certified payroll; (g) evidence that MBEAA/BE contractor associations have been informed of the Project via written notice and hearings; and (h) 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 Annex is not complying with its obligations under this Section 23, shall, upon the delivery of written notice to Annex, 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: (x) issue a written demand to Annex to halt construction of the Project, (y) withhold any further

22

payment of any City funds to Annex or the general contractor, or (z) seek any other remedies against Annex available at law or in equity.

#### **SECTION 24. REPRESENTATIONS AND WARRANTIES.**

1 Representations and Warranties of SERC. To induce the City to execute this Agreement and perform its obligations hereunder, SERC hereby represents and warrants to the City that as of the date of this Agreement and as of the Closing Date the following shall be true and correct in all respects:

a) SERC is a not-for-profit corporation duly organized under the laws of the State of Illinois and validly existing and in good standing under the laws of the State of Illinois with full power and authority to acquire, own and redevelop the Property, and that the person signing this Agreement on behalf of SERC has the authority to do so.

b) All certifications and statements contained in the Economic Disclosure Statement last submitted to the City by SERC (and any legal entity holding an interest in SERC) are true, accurate and complete.

c) SERC's execution, delivery and performance of this Agreement and all instruments and agreements contemplated hereby will not, upon the giving of notice or lapse of time, or both, result in a breach or violation of, or constitute a default under SERC's operating agreement or any agreement to which SERC, or any party affiliated with SERC, is a party or by which SERC or the Property is bound.

d) To the best of SERC's knowledge, no action, litigation, investigation or proceeding of any kind is pending or threatened against SERC, or any party affiliated with SERC, and SERC knows of no facts which could give rise to any such action, litigation, investigation or proceeding, which could: (i) affect the ability of SERC to perform its obligations hereunder; or (ii) materially affect the operation or financial condition of SERC.

e) To the best of SERC's knowledge, the Project, if completed in accordance with the Plans, will not violate: (i) any Laws, including, without limitation, any zoning and building codes and environmental regulations; or (ii) any building permit, restriction of record or other agreement affecting the Property.

2 Representations and Warranties of Annex. To induce the City to execute this Agreement and perform its obligations hereunder, Annex hereby represents and warrants to the City that as of the date of this Agreement and as of the Closing Date the following shall be true and correct in all respects:

23

a) Annex is a not-for-profit corporation duly organized under the laws of the State of Illinois and validly existing and in good standing under the laws of the State of Illinois with full power and authority to acquire, own and redevelop the Property, and that the person signing this Agreement on behalf of Annex has the authority to do so.

b) All certifications and statements contained in the Economic Disclosure Statement last submitted to the City by Annex (and any legal entity holding an interest in Annex) are true, accurate and complete.

c) Annex's execution, delivery and performance of this Agreement and all instruments and agreements contemplated hereby will not, upon the giving of notice or lapse of time, or both, result in a breach or violation of, or constitute a default under Annex's by-laws or any agreement to which Annex, or any party affiliated with Annex, is a party or by which Annex or the Property is bound.

d) To the best of Annex's knowledge, no action, litigation, investigation or proceeding of any kind is pending or threatened against Annex, or any party affiliated with Annex, and Annex knows of no facts which could give rise to any such action, litigation, investigation or proceeding, which could: (i) affect the ability of Annex to perform its obligations hereunder; or (ii) materially affect the operation or financial condition of Annex.

e) To the best of Annex's knowledge, the Project, if completed in accordance with the Plans, will not violate: (i) any Laws, including, without limitation, any zoning and building codes and environmental regulations; or (ii) any building permit, restriction of record or other agreement affecting the Property.

3 Representations and Warranties of the City. To induce Annex and SERC to execute this Agreement and perform its obligations hereunder, the City hereby represents and warrants to Annex and SERC that the City has authority under its home rule powers to execute and deliver this Agreement and perform the terms and obligations contained herein.

4 Survival of Representations and Warranties. Each of the parties agrees that all of its

representations and warranties set forth in this Section 24 or elsewhere in this Agreement are true as of the date of this Agreement and will be true in all material respects at all times thereafter, except with respect to matters which have been disclosed in writing and approved by the other party.

**SECTION 25. NOTICES.**

Any notice, demand or communication required or permitted to be given hereunder shall be given in writing at the addresses set forth below by any of the

24

following means: (a) personal service; (b) facsimile, provided that there is written confirmation of such communication; (c) overnight courier; or (d) registered or certified first class mail, postage prepaid, return receipt requested:

If to the City:

i

With a copy to

If to SERC:

j

With a copy to

And to:

If to Annex:

City of Chicago  
Department of Planning and Development  
121 North LaSalle Street, Room 1000 Chicago, IL 60602 Attn: Commissioner Fax: 312-744-5826

City of Chicago  
Department of Law  
121 North LaSalle Street, Room 600  
Chicago, IL 60602  
Attn: Real Estate and Land Use Division Fax: 312-742-0277

St. Edmund's  
Redevelopment Corporation 6105 South Michigan Avenue Chicago, Illinois 60637 Attn:  
Executive Director Fax: 773-752-8067

Patricia Holland Albert Whitehead P.C. 10 North Dearborn Suite 600 Chicago, Illinois 60602 Fax:  
312-357-6219

Illinois Housing Development Authority  
401 North Michigan Avenue, Suite 700  
Chicago, Illinois 60611  
Attention: Assistant to the Executive  
Director for Multifamily Programs  
Fax: 312-832-7685

St. Edmund's Tower Annex, Inc. 6105 South Michigan Avenue Chicago, Illinois 60637 Attn:  
Executive Director Fax: 773-752-8067

25

P.C.

Patricia Holland  
With a copy to: Albert Whitehead  
  
10 North Dearborn Suite 600 Chicago,  
Illinois 60602 Fax: 312-357-6219

Any notice, demand or communication given pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon confirmed transmission by facsimile, respectively, provided that such facsimile transmission is confirmed as having occurred prior to 5:00 p.m. on a business day. If such transmission occurred after 5:00 p.m. on a business day or on a non-

business day, it shall be deemed to have been given on the next business day. Any notice, demand or communication given pursuant to clause (c) shall be deemed received on the business day immediately following deposit with the overnight courier. Any notice, demand or communication sent pursuant to clause (d) shall be deemed received three (3) business days after mailing. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, demands or communications shall be given. The refusal to accept delivery by any party or the inability to deliver any communication because of a changed address of which no notice has been given in accordance with this Section 25 shall constitute delivery.

## **SECTION 26. BUSINESS RELATIONSHIPS.**

Annex and SERC each acknowledge (a) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (b) that it has read such provision and understands that pursuant to such Section 2-156-030 (b) it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected City official or employee has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship, and (c) notwithstanding anything to the contrary contained in this Agreement, 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. Annex and SERC each hereby represent and warrant that no violation of Section 2-156-030 (b) has occurred with respect to this Agreement or the transactions contemplated hereby.

## **SECTION 27. PATRIOT ACT CERTIFICATION.**

### **26**

Annex and SERC each represent and warrant that Annex, SERC, and any Affiliate (as defined below) thereof are not 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 Laws: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. As used in this Section 27, an "Affiliate" shall be deemed to be a person or entity related to Annex or SERC that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with Annex or SERC, 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.

## **SECTION 28. PROHIBITION ON CERTAIN CONTRIBUTIONS - MAYORAL EXECUTIVE ORDER NO. 2011-4.**

1 Annex and SERC each agree that Annex, SERC, any person or entity who directly or indirectly has an ownership or beneficial interest in Annex or SERC of more than 7.5 percent ("Owners"), spouses and domestic partners of such Owners, Annex's or SERC's contractors (i.e., any person or entity in direct contractual privity with Annex or SERC regarding the subject matter of this Agreement) ("Contractors"), any person or entity who directly or indirectly has an ownership or beneficial interest in any Contractor of more than 7.5 percent ("Sub-owners") and spouses and domestic partners of such Sub-owners (Annex, SERC and all the other preceding classes of persons and entities are together the "Identified Parties"), shall not make a contribution of any amount to the Mayor of the City of Chicago (the "Mayor") or to his political fundraising committee (a) after execution of this Agreement by Annex or SERC, (b) while this Agreement or any Other Contract (as hereinafter defined) is executory, (c) during the term of this Agreement or any Other Contract, or (d) during any period while an extension of this Agreement or any Other Contract is being sought or negotiated. This provision shall not apply to contributions made prior to May 16, 2011, the effective date of Executive Order 2011-4.

2 Annex and SERC each represent and warrant that from the later of (a) May 16, 2011, or (b) the date the City approached Annex or SERC, or the date Annex or SERC approached the City, as applicable, regarding the formulation of this Agreement, no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee.

3 Annex and SERC each agree that it shall not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (c)

27

bundle or solicit others to bundle contributions to the Mayor or to his political fundraising committee.

4 Annex and SERC each agree that the Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

5 Notwithstanding anything to the contrary contained herein, Annex and SERC each agree that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this Section 28 or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Agreement, and under any Other Contract for which no opportunity to cure will be granted, unless the City, in its sole discretion, elects to grant such an opportunity to cure. Such breach and default entitles the City to all remedies (including, without limitation, termination for default) under this Agreement, and under any Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

6 If Annex or SERC intentionally violates this provision or Mayoral Executive Order No. 2011-4 prior to the Closing, the City may elect to decline to close the transaction contemplated by

this Agreement.

7 For purposes of this provision:

a) "Bundle" means to collect contributions from more than one source, which contributions are then delivered by one person to the Mayor or to his political fundraising committee.

b) "Other Contract" means any other agreement with the City to which Annex or SERC is a party that is (i) formed under the authority of Chapter 2-92 of the Municipal Code of Chicago; (ii) entered into for the purchase or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved or authorized by the City Council.

c) "Contribution" means a "political contribution" as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

d) Individuals are "domestic partners" if they satisfy the following criteria:

i) they are each other's sole domestic partner, responsible for each other's common welfare; and

ii) neither party is married; and

28

iii) the partners are not related by blood closer than would bar marriage in the State of Illinois; and

iv) each partner is at least 18 years of age, and the partners are the same sex, and the partners reside at the same residence; and

v) two of the following four conditions exist for the partners:

1) The partners have been residing together for at least 12 months.

2) The partners have common or joint ownership of a residence.

3) The partners have at least two of the following arrangements:

A) joint ownership of a motor vehicle;

B) joint credit account;

(C) a joint checking account;

(D) a lease for a residence identifying both domestic partners as tenants.

- 4) Each partner identifies the other partner as a primary beneficiary in a will.

(e) "Political fundraising committee" means a "political fundraising committee" as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

## **SECTION 29. MISCELLANEOUS.**

The following general provisions govern this Agreement:

1 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute a single, integrated instrument.

2 Cumulative Remedies. The remedies of any party hereunder are cumulative and the exercise of any one or more of such remedies shall not be construed as a waiver of any other remedy herein conferred upon such party or hereafter existing at law or in equity, unless specifically so provided herein.

3 Date for Performance. If the final date of any time period set forth herein falls on a Saturday, Sunday or legal holiday under the laws of Illinois or the United

### **29**

States of America, then such time period shall be automatically extended to the next business day.

4 Entire Agreement; Modification. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any prior agreements, negotiations and discussions. This Agreement may not be modified or amended in any manner without the prior written consent of the parties hereto. No term of this Agreement may be waived or discharged orally or by any course of dealing, but only by an instrument in writing signed by the party benefitted by such term.

5 Exhibits. All exhibits referred to herein and attached hereto shall be deemed part of this Agreement.

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

7 Headings. The headings of the various sections and subsections of this Agreement have been inserted for convenience of reference only and shall not in any manner be construed as modifying, amending or affecting in any way the express terms and provisions hereof.

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

9 No Waiver. No waiver by the City with respect to any specific default by Annex or SERC shall be deemed to be a waiver of the rights of the City with respect to any other defaults of Annex or SERC, nor shall any forbearance by the City to seek a remedy for any breach or default be deemed a waiver of its rights and remedies with respect to such breach or default, nor shall the City be deemed to have waived any of its rights and remedies unless such waiver is in writing.

10 Severability. If any term of this Agreement or any application thereof is held invalid or unenforceable, the remainder of this Agreement shall be construed as if such invalid part were never included herein and this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

11 Successors and Assigns. Except as otherwise provided in this Agreement, the terms and conditions of this Agreement shall apply to and bind the successors and assigns of the parties.

## **SECTION 30. COMPLIANCE WITH "SHAKMAN" ACCORD PROVISIONS**

30.1 The City is subject to the May 31, 2007 Order entitled "Agreed Settlement

30

Order and Accord" (the "Shakman Accord") and the August 16, 2007 "City of Chicago Hiring Plan" (the "City Hiring Plan") entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United States District Court for the Northern District of Illinois). Among other things, the Shakman Accord and the City Hiring Plan prohibit the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

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

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

4 In the event of any communication to SERC or Annex by a City employee or City official in violation of Section 30.2 above, or advocating a violation of Section 30.3 above, SERC or Annex, as applicable, will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General ("IGO Hiring Oversight"), and also to the head of the relevant City Department utilizing services provided under this Agreement. SERC and Annex will also cooperate with any inquiries by IGO Hiring Oversight or the Shakman Monitor's Office related to the contract. SERC and Annex will also cooperate with any inquiries by IGO Hiring Oversight or the Shakman Monitor's Office related to this Agreement.

**SECTION 31. COMPLIANCE WITH "WASTE" PROVISIONS.**

Any duly authorized representative of the City shall have access to the Property at all reasonable times for the purpose of determining whether Annex is constructing the Project in accordance with the terms of this Agreement and all applicable federal, state

**31**

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

**SECTION 32. FAILURE TO MAINTAIN ELIGIBILITY TO DO BUSINESS WITH THE CITY.**

Failure by Annex or SERC or any controlling person (as defined in Section 1-23-010 of the Municipal Code of Chicago) thereof to maintain eligibility to do business with the City of Chicago as required by Section 1-23-030 of the Municipal Code of Chicago prior to receipt of the Certificate of Completion shall be grounds for termination of the Agreement and the transactions contemplated thereby. Annex and SERC shall at all times comply with Section 2-154-020 of the Municipal Code of Chicago.

**SECTION 33. INSPECTOR GENERAL AND LEGISLATIVE INSPECTOR GENERAL.**

It is the duty of every officer, employee, department, agency, contractor, subcontractor, developer and licensee of the City, and every applicant for certification of eligibility for a City contract or program, to cooperate with the City's Legislative Inspector General and with the City's Inspector General in any investigation or hearing undertaken pursuant to Chapters 2-55 and 2-56, respectively, of the Municipal Code of Chicago. Annex and SERC understand and will abide by all provisions of

Chapters 2-55 and 2-56 of the Municipal Code of Chicago.

[signature page follows]

32

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on or as of the date first above written.

CITY OF CHICAGO, an Illinois municipal corporation

By:  
Andrew J. Mooney, Commissioner  
Department of Planning and  
Development

**ST. EDMUND'S TOWER ANNEX, INC.,**  
an Illinois not-for-profit corporation

By:  
Name: Its:

**ST. EDMUND'S  
REDEVELOPMENT CORPORATION,**  
an Illinois not-for-profit corporation

By:  
Name: Its:



STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that \_\_\_\_\_, the \_\_\_\_\_ of St. Edmund's Tower Annex, Inc., an Illinois not-for-profit corporation, 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, being first duly sworn by me, acknowledged that s/he signed and delivered the foregoing instrument pursuant to authority given by said corporation, as her/his free and voluntary act and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

NOTARY PUBLIC

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that \_\_\_\_\_, the \_\_\_\_\_ of St. Edmund's Redevelopment Corporation, an Illinois not-for-profit corporation, 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, being first duly sworn by me, acknowledged that s/he signed and delivered the foregoing instrument pursuant to authority given by said corporation, as her/his free and voluntary act and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

NOTARY PUBLIC

35

**EXHIBIT A to Redevelopment Agreement LEGAL DESCRIPTION OF  
PROPERTY**

[To Come]

P.I.N.: 20-15-314-012-0000

Commonly known as: 6151 South Michigan Avenue, Chicago, Illinois

**EXHIBIT B to Redevelopment Agreement**

**NARRATIVE DESCRIPTION OF PROJECT**

Annex shall construct on the Property a five-story, 34-unit, affordable rental apartment building for independent seniors. The building will contain 34 one bedroom apartments. All apartments shall be rented in accordance with the affordability requirements set forth in Section 10A.

Annex shall construct the building as an Energy Star rated development. In addition to energy star rated appliances, ceiling fans, heat/air conditioning units and mini-blinds, building amenities include a lobby lounge, a library/computer room, a multi-purpose community room, a security desk, laundry facilities, a garden and off-street parking. A social service coordinator will be on-site to assist residents and make sure they are aware of and obtain City and State services they are eligible to receive as well as plan trips and outings. The lobby lounge and multi-purpose rooms will have picturesque windows that enable residents to enjoy the landscaping and sites while waiting for their transportation or relaxing.

37

**EXHIBIT C to Redevelopment Agreement**

**WORKING DRAWINGS AND SPECIFICATIONS**

**[To Come]**

38

t

*Title 47, Part 355 of the Illinois Administrative Code, 47 Ill. Adm. Code 355.101, et seq., and further generating certain additional proceeds to be made available for the Project; now, therefore,*

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

SECTION 1. The above recitals are expressly incorporated in and made a part of this ordinance as though fully set forth herein.

SECTION 2. The sale of the Property to SERC, for immediate reconveyance to Annex, in the amount of One Dollar (\$1.00) is hereby approved. This approval is expressly conditioned upon the City entering into the Redevelopment Agreement. The Commissioner of DPD (the "Commissioner") or a designee of the Commissioner is each hereby authorized, with the approval of the City's Corporation Counsel as to form and legality, to negotiate, execute and deliver the Redevelopment Agreement, and such other supporting documents "as may be necessary or appropriate 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 3. The Mayor or his proxy is authorized to execute, and the City Clerk is authorized to attest, a quitclaim deed conveying the Property to SERC, or to a land trust of which SERC is the sole beneficiary, or to a business entity of which SERC is the sole controlling party or which is comprised of the same principal parties, subject to those covenants, conditions and restrictions set forth in the Redevelopment Agreement entered into among the City, SERC and Annex in connection with the Project.

SECTION 4. The City hereby approves the conveyance of the Property from the City to SERC as a donation under the Donation Tax Credit Program in connection with the Project. The Commissioner or a designee of the Commissioner (the "Authorized Officer") is hereby authorized to transfer the tax credits allocated to the City, if any, under the Donation Tax Credit Program in connection with the conveyance of the Property to an entity satisfactory to the Authorized Officer on such terms and conditions as are satisfactory to the Authorized Officer (the "Transfer"). The proceeds, if any, received by the City in connection with the Transfer are hereby appropriated, and the Authorized Officer is hereby authorized to use such proceeds, to make a grant to SERC or to another entity affiliated with SERC, in his, or her sole discretion, for use in connection with the Project (the "Grant"). The Authorized ^Officer, is hereby authorized, subject to approval by the Corporation Counsel, to enter into and execute such agreements and instruments, and perform any and all

acts as shall be necessary or advisable in connection with the implementation of the Transfer and the Grant. Upon the execution and receipt of proper documentation, the Authorized Officer is hereby authorized to disburse the proceeds of the Grant to SERC or another entity affiliated with SERC, as applicable.

SECTION 5. Section 2-45-110 of the Municipal Code of Chicago shall not apply to the Project or the Property.

SECTION 6. To the extent that any ordinance, resolution, rule" order or provision of the Municipal Code of Chicago, or part thereof, is in conflict with the provisions of this ordinance, the provisions of this ordinance shall control. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance.

SECTION 7. This ordinance shall be effective as of the date of its passage and approval.