



# Office of the City Clerk

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

## Legislation Details (With Text)

**File #:** O2014-4065  
**Type:** Ordinance                      **Status:** Passed  
**File created:** 4/30/2014              **In control:** City Council  
**Final action:** 5/28/2014  
**Title:** Negotiated sale of City-owned property at 4237 S Wells St, 4241 S Wells St and 224 W 43rd St to Ultimate Gas & Mini Mart, Inc.  
**Sponsors:** Emanuel, Rahm  
**Indexes:** Sale  
**Attachments:** 1. O2014-4065.pdf

Date	Ver.	Action By	Action	Result
5/28/2014	1	City Council	Passed	Pass
5/21/2014	1	Committee on Housing and Real Estate	Recommended to Pass	Pass
4/30/2014	1	City Council	Referred	

OFFICE OF THE MAYOR

CITY OF CHICAGO

RAHM EMANUEJL MAYOR

April 30, 2014

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

Ladies and Gentlemen:

At the request of the Commissioner of Planning and Development, I transmit herewith ordinances authorizing the sale of City-owned property.

Your favorable consideration of these ordinances will be appreciated.

Mayor

Very truly yours,

AN ORDINANCE OF THE CITY OF CHICAGO, ILLINOIS AUTHORIZING  
THE NEGOTIATED SALE AND CONVEYANCE OF A CITY PROPERTY TO  
ULTIMATE GAS & MINI MART, INC. AND DESIGNATING ULTIMATE GAS  
& MINI MART, INC. AS DEVELOPER

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

WHEREAS, the City has established the Community Development Commission ("CDC") to, among other things, designate redevelopment areas, approve redevelopment plans, and recommend the sale of parcels located in redevelopment areas, subject to the approval of the City Council; and

WHEREAS, pursuant to an ordinance adopted by the City Council ("City Council") of the City on May 29, 2002, and published at pages 85676 through 85871 in the Journal of the Proceedings of the City Council ("Journal") of such date, the City approved a certain redevelopment plan and project ("Redevelopment Plan") for the 47<sup>th</sup>/Halsted Tax Increment Redevelopment Project Area ("Redevelopment Area") pursuant to the Illinois Tax Increment Allocation Redevelopment Act, as amended (65 ILCS 5/11 -74.4-1, et sea.,) ("Act"); and

WHEREAS, pursuant to an ordinance adopted by the City Council on June 10, 1998, and published at pages 85872 through 85888 in the Journal of such date, the City designated the Redevelopment Area as a redevelopment project area pursuant to the Act; and

WHEREAS, pursuant to an ordinance (the "TIF Ordinance") adopted by the City Council on May 29, 2002, and published at pages 85889 through 85904 in the Journal of such date, the City adopted tax increment allocation financing pursuant to the Act as a means of financing certain redevelopment project costs (as defined in the Act) in the Redevelopment Area incurred pursuant to the Redevelopment Plan; and

WHEREAS, the City is the owner of the vacant parcels of land located at 4237 S. Wells Street, 4241 S. Wells Street, and 224 W. 43d Street, Chicago, Illinois 60612, which are legally described on Exhibit A attached hereto (the "City Property"), and which are located in the Redevelopment Area; and

WHEREAS, Ultimate Gas & Mini Mart, Inc., an Illinois corporation (the "Developer"), has submitted a proposal to the Department of Planning and Development (the "Department") to purchase the Property for \$33,000, which is the fair market value of the City Property; and

WHEREAS, the Developer owns the real property located adjacent to the City Property at 4240-58 S. Wentworth Street, and operates a retail building and a gas station ("Existing Business") thereon; and

WHEREAS, the Developer operates its Existing Business under a special use permit ("Special Use"); and

WHEREAS, the Developer has filed an application to vacate approximately 207 feet of an existing north-south public alley and approximately 122 feet of an existing east-west public alley located adjacent to the City Property, as depicted on the preliminary plat of vacation attached to the Redevelopment Agreement (as hereinafter defined) as Exhibit B-1 (the "Vacated Property"); and

WHEREAS, the Developer has filed an application to dedicate the north 18 feet of the City Property for a new east-west public alley, as depicted on the preliminary plat of vacation attached to the Redevelopment Agreement (as hereinafter defined) as Exhibit B-2 (the "Dedicated Property") and, upon such dedication, the Dedicated Property will be disconnected from the City Property pursuant to statute; and

WHEREAS, the City Property and the Vacated Property, minus the Dedicated Property (upon dedication to the City), shall be referred to hereafter as the "Project Site"; and

WHEREAS, the Developer wishes to expand its business by constructing two (2) one-story commercial buildings and parking for nineteen (19) vehicles on the Project Site (the "Project"); and

WHEREAS, the Developer acknowledges it may have to file an application to amend its Special Use for the Project; and

WHEREAS, the City is seeking separate authorization to amend the Redevelopment Plan to permit a commercial use of the City Property (the "Amendment"); and

WHEREAS, the Project is consistent with the purposes and objectives of the Redevelopment Plan, as amended by the Amendment; and

WHEREAS, the Developer has agreed to undertake the Project in accordance with the Redevelopment Plan, as amended by the Amendment, and pursuant to the terms and conditions of a redevelopment agreement in substantially the form attached hereto as Exhibit B (the "Redevelopment Agreement"); and

WHEREAS, by Resolution No. 14-CDC-II, adopted on March 11, 2014, the CDC authorized the Department to advertise its intention to enter into a negotiated sale with the Developer for the redevelopment of the City Property, approved the Department's request to

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advertise for alternative proposals, and approved the sale of the City Property to the Developer if no alternative proposals were received; and

WHEREAS, public notices advertising the Department's intent to enter into a negotiated sale of the Property with the Developer and requesting alternative proposals appeared in the Chicago Sun-Times on March 19, 26 and April 2, 2014; and

*WHEREAS, no alternative proposals were received by the deadline indicated in the aforesaid notices; now, therefore,*

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICA GO:**

SECTION 1. The foregoing recitals are hereby adopted as the findings of the City Council.

SECTION 2. The sale of the City Property to the Developer in the amount of \$33,000.00 is hereby approved. This approval is expressly conditioned upon the City entering into the Redevelopment Agreement with the Developer. The Commissioner of the Department (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.

SECTION3. The Mayor or his proxy is authorized to execute, and the City Clerk is authorized to attest, a quitclaim deed conveying the Property to the Developer, or to a land trust of which the Developer is the sole beneficiary, or to an entity of which the Developer is the sole controlling party or is comprised of the same principal parties, subject to those covenants, conditions and restrictions set forth in the Redevelopment Agreement.

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

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

SECTION 6. This ordinance shall take effect immediately upon its passage and approval.

**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY**

(SUBJECT TO FINAL SURVEY AND TITLE COMMITMENT)

**PARCEL 1:**

LOTS 45 AND 46 IN BLOCK 2 OF SUPERIOR COURT SUBDIVISION OF LOT 2 IN SUPERIOR COURT PARTITION OF THE SOUTH 3/8 OF THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 4237-41 SOUTH WELLS STREET  
CHICAGO, ILLINOIS 60609

PERMANENT INDEX NOS. 20-04-223-029-0000,  
20-04-223-030-0000

**PARCEL 2:**

LOT 1 IN MRS. CATHERINE I. PALMER'S SUBDIVISION OF LOTS 38 TO 43, INCLUSIVE, IN BLOCK 2 OF SUPERIOR COURT SUBDIVISION OF LOT 2 IN SUPERIOR COURT PARTITION OF THE SOUTH 3/8 OF THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 224 WEST 43<sup>KD</sup> STREET  
CHICAGO, ILLINOIS 60609

20-024-223-033-0000

PERMANENT INDEX NO.

**EXHIBIT B REDEVELOPMENT AGREEMENT**

[ATTACHED]

**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, by and between the CITY**

OF CHICAGO, an Illinois municipal corporation ("City"), acting by and through its Department of Planning and Development ("DPP"), having its principal offices at City Hall, 121 North LaSalle Street, Chicago, Illinois 60602 and ULTIMATE GAS & MINI MART, INC., an Illinois corporation ("Developer"), whose offices are located at 4240-58 South Wentworth Avenue, Chicago, Illinois 60609.

### RECITALS

WHEREAS, the Developer desires to purchase from the City certain real property located at 4237 South Wells, 4241 South Wells, and 224 West 43<sup>rd</sup> Street, Chicago, IL 60609, as legally described on Exhibit A-1 attached hereto (the "City Property"); and

WHEREAS, the Developer owns the real property located adjacent to the City Property at 4240-58 South Wentworth Avenue, and operates a retail building and a gas station ("Existing Business") thereon; and

WHEREAS, the Developer operates its Existing Business under a Special Use (as defined in Section 2 below); and

WHEREAS, the Developer has filed an application to vacate approximately 207 feet of an existing north-south public alley and approximately 122 feet of an existing east-west public alley located adjacent to the City Property, as legally described on Exhibit A-2 attached hereto and depicted on the preliminary plat of vacation attached hereto as Exhibit B-1 (the "Vacated Property"); and

WHEREAS, the Developer has filed an application to dedicate the north 18 feet of the City Property for a new east-west public alley, as legally described on Exhibit A-3 attached hereto and depicted on the preliminary plat of dedication attached hereto as Exhibit B-2 (the "Dedicated Property") and, upon such dedication, the Dedicated Property will be disconnected from the City Property pursuant to statute; and

WHEREAS, the Vacated Property will be vacated and the Dedicated Property will be dedicated pursuant to separate ordinances (such ordinances, the "Vacation and Dedication Ordinances"); and

WHEREAS, the City Property and the Vacated Property, minus the Dedicated Property (upon dedication to the City), shall be referred to herein as the "Project Site"; and

WHEREAS, the Developer wishes to expand its business by constructing two (2) one-story commercial buildings and parking for nineteen (19) vehicles on the Project Site (as more fully described in Section 2 below, the "Project"); and

WHEREAS, the Developer may have to file an application to amend its Special Use for the Project; and

WHEREAS, the Project Site is located in the 47<sup>th</sup>/Halsted Redevelopment Project Area (the "TIF Area"), as created by ordinances adopted on May 29, 2002, and published at pages 85676 through 85904 in the Journal of the Proceedings of the City Council (the "Journal") of such date; and

WHEREAS, the City has introduced or intends to introduce an ordinance to amend the redevelopment plan and project for the TIF Area (the "TIF Plan") to permit a commercial use of the Project Site; and

WHEREAS, the Project is consistent with the TIF Plan, as such plan will be amended; and

WHEREAS, the City Council, pursuant to an ordinance adopted on \_\_\_\_\_, and published at pages \_\_\_\_\_ through \_\_\_\_\_ in the Journal of such date (the "Project Ordinance"), authorized the sale of the City Property to the Developer, subject to the execution, delivery and recording of this Agreement.

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

**SECTION 1. INCORPORATION OF RECITALS.**

The foregoing recitals 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. DEFINITIONS.**

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

"Affiliate" means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with the Developer, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any

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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.

"Agent" means any contractor, subcontractor or other agent, entity or individual acting under the control or at the request of the Developer or the Developer's contractors.

"Architect" means Vari Architects, Ltd.

"Budget" has the meaning set forth in Section 9.

"Certificate of Completion" has the meaning set forth in Section 14.

"City Hiring Plan" has the meaning set forth in Section 32.1.

"City Parties" means the City, and its officers, employees and agents.

"City Property" has the meaning set forth in the Recitals.

"Closing" means the closing of the transaction contemplated by this Agreement

"Closing Date" has the meaning set forth in Section 5.

"Construction Program" has the meaning set forth in Section 24.3(a).

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

"Deed" has the meaning set forth in Section 6.1.

"Developer Parties" means the Developer, the Developer's Affiliates, and the respective officers, directors, employees, agents, successors and assigns of the Developer and its Affiliates.

"Earnest Money" has the meaning set forth in Section 4.1.

"Effective Date" means the date upon which this Agreement has been both (a) fully executed, and (b) delivered to the Developer.

"Employer(s)" has the meaning set forth in Section 24.1.

"Environmental Laws" means any and all Laws relating to the regulation and protection of human health, safety, the environment and natural resources now or hereafter in effect, as amended or supplemented from time to time, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq., the Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq., the Clean Air Act, 42 U.S.C. § 7401 et seq., the Toxic Substances Control Act, 15 U.S.C. §2601 et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C.

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§ 136 et seq., the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq., any and all regulations promulgated under such Laws, and all analogous state and local counterparts or equivalents of such Laws, including, without limitation, the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq., and the common law, including, without limitation, trespass and nuisance.

"Equity" means funds of the Developer (other than funds derived from Lender Financing) irrevocably available for the Project.

"Event of Default" has the meaning set forth in Section 20.2.

"Governmental Approvals" has the meaning set forth in Section 8.

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

"Human Rights Ordinance" has the meaning set forth in Section 24.1(a).

"IGO Hiring Oversight" has the meaning set forth in Section 32.4.

"Laws" means all applicable federal, state, county, municipal or other laws (including common law), statutes, codes, ordinances, rules, regulations, executive orders or other requirements, now or hereafter in effect, as amended or supplemented from time to time, and any applicable judicial or administrative



interpretation thereof, including any applicable judicial or administrative orders, consent decrees or judgments.

"Lender Financing" means any funds borrowed by the Developer from lenders and irrevocably available to pay for costs of the Project.

"Losses" means any and all debts, liens, claims, causes of action, demands, complaints, legal or administrative proceedings, losses, damages, obligations, liabilities, judgments, amounts paid in settlement, arbitration or mediation awards, interest, fines, penalties, costs and expenses (including, without limitation, reasonable attorney's fees and expenses, consultants' fees and expenses and court costs).

"MBE/WBE Program" has the meaning set forth in Section 24.3(a).

"Municipal Code" means the Municipal Code of Chicago.

"Outside Closing Date" has the meaning set forth in Section 5.

"Performance Deposit" has the meaning set forth in Section 4.2.

"Plans" has the meaning set forth in Section 11.1.

"Preliminary Project Budget" has the meaning set forth in Section 9.

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"Procurement Program" has the meaning set forth in Section 24.3(a).

"Project" means two (2), one-story, 6,100 square foot commercial buildings, one of which will contain retail tenant space and a laundromat and one of which will contain a car wash, together with parking for nineteen (19) vehicles, as depicted on the Plans.

"Project Ordinance" has the meaning set forth in the Recitals.

"Project Site" has the meaning set forth in the Recitals.

"Proof of Financing" has the meaning set forth in Section 9.

"Purchase Price" has the meaning set forth in Section 3.

"Reconveyance Deed" has the meaning set forth in Section 10.14.

"Released Claims" has the meaning set forth in Section 23.3.

"Shakman Accord" has the meaning set forth in Section 32.1.

"Special Use" has the meaning set forth under Section 17-17-02167 of the Municipal Code.

"TIF Area" has the meaning set forth in the Recitals. "TIF Plan"

has the meaning set forth in the Recitals.

"Title Company" means

"Title Commitment" has the meaning set forth in Section 7.1.

"Title Policy" means a title insurance policy issued by the Title Company in the most recently revised ALTA or equivalent form, showing the Developer as the named insured with respect to the City Property, noting the recording of this Agreement and a subordination agreement with respect to any Lender Financing for the Project (as described in Section 10.10 below) as encumbrances against the Project Site.

"Vacation and Dedication Ordinances" has the meaning set forth in the Recitals.

"Waste Sections" has the meaning set forth in Section 31.

### **SECTION 3. PURCHASE PRICE.**

The City hereby agrees to sell, and the Developer hereby agrees to purchase, upon and subject to the terms and conditions of this Agreement, the City Property, for the sum of Thirty-Three Thousand and No/100 Dollars (\$33,000.00) ("Purchase Price"), to be paid to the City at the Closing in cash or by certified or cashier's check or wire transfer of immediately available funds, less the Earnest Money (as defined in Section 4.1). Except as specifically provided

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herein to the contrary, the Developer shall pay all escrow fees and other title insurance fees and closing costs.

### **SECTION 4. EARNEST MONEY AND PERFORMANCE DEPOSIT.**

4.1 Earnest Money. The City acknowledges that the Developer has deposited with DPD the amount of Six Thousand Six Hundred and No/100 Dollars (\$6,600) ("Earnest Money"), which shall be credited against the Purchase Price at the Closing (as defined in Section 5 below).

4.2 Performance Deposit. The City acknowledges that the Developer has deposited with DPD the amount of Six Thousand Six Hundred and No/100 Dollars (\$6,600), as security for the performance of its obligations under this Agreement ("Performance Deposit"), which the City will retain until the City issues the Certificate of Completion (as defined in Section 14).

4.3 Interest. The City will pay no interest to the Developer on the Performance Deposit.

### **SECTION 5. CLOSING.**

The Closing shall take place at the downtown offices of the Title Company within thirty (30) days after the Developer has satisfied all conditions precedent set forth in Section 10 hereof, unless DPD, in its sole discretion, waives such conditions (the "Closing Date"); provided, however, in no event shall the Closing occur any later than July 31, 2014 (the "Outside Closing Date"), unless the Commissioner of DPD, in his sole discretion, extends such Outside Closing Date by not more than six (6) months. On or before the Closing Date, 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 6. CONVEYANCE OF TITLE.**

6.1 Form of City Deed. The City shall convey the City Property to the Developer by quitclaim deed ("Deed"), subject to the terms of this Agreement and, without limiting the quitclaim nature of the deed, the following:

- (a) the TIF Plan for the TIF Area;
- (b) the standard exceptions in an ALTA title insurance policy;
- (c) general real estate taxes and any special assessments or other taxes;
- (d) all easements, encroachments, covenants and restrictions of record and not shown of record;
- (e) such other title defects as may exist; and
- (f) any and all exceptions caused by the acts of the Developer or its Agents.

6.2 Recording Costs. The Developer shall pay to record the Deed, this Agreement, and any other documents incident to the conveyance of the City Property to the Developer.

**SECTION 7. TITLE AND SURVEY.**

7.1 Title Commitment and Insurance. Not less than 30 days before the anticipated Closing Date, the Developer shall obtain a commitment for an owner's policy of title insurance for the City Property, issued by the Title Company ("Title Commitment"). The Developer shall be solely responsible for and shall pay all costs associated with updating the Title Commitment (including all search, continuation and later-date fees), and obtaining the Title Policy and any endorsements it deems necessary.

7.2 Correction of Title. The City shall have no obligation to cure title defects; provided, however, if there are exceptions for general real estate taxes due or unpaid prior to the Closing Date with respect to the City Property or liens for such unpaid property taxes, the City shall ask the County to void the unpaid taxes as provided in Section 21-100 of the Property Tax Code, 35 ILCS 200/21-100, or file an application for a Certificate of Error with the Cook County Assessor, or tax injunction suit or petition to vacate a tax sale in the Circuit Court of Cook County. If, after taking the foregoing actions and diligently pursuing same, the City Property remains subject to any tax liens, or if the City Property is encumbered with any other exceptions that would adversely affect the use and insurability of the City Property for the development of the Project, the Developer shall have the option to do one of the following: (a) accept title to the City Property subject to the exceptions, without reduction in the Purchase Price; or (b) terminate this Agreement in accordance with Section 9 below. If the Developer elects not to terminate this Agreement as aforesaid, the Developer agrees to accept title subject to all exceptions.

7.3 Survey. The Developer shall obtain a survey of the Project Site at the Developer's sole cost and expense.

**SECTION 8. BUILDING PERMITS AND OTHER GOVERNMENTAL APPROVALS.**

The Developer shall apply for all necessary building permits and other required permits and approvals, including, without limitation, the Vacation and Dedication Ordinances and, if applicable, an amended Special Use (collectively, "Governmental Approvals") for the Project within twelve (12) months after the Closing, unless DPD, in its sole discretion, extends such application date, and shall pursue such Governmental Approvals in good faith and with all due diligence.

**SECTION 9. PROJECT BUDGET AND PROOF OF FINANCING.**

The Developer has furnished to DPD, and DPD has approved, a preliminary project budget showing total costs for the construction of the Project in the amount of Eight Hundred Twenty-Two Thousand and No/100 Dollars (\$822,000.00) (the "Preliminary Project Budget"). The Developer hereby certifies to the City that the Preliminary Project Budget is true, correct and complete in all material respects. Not less than fourteen (14) days prior to the Closing Date, the Developer shall submit to DPD for approval a final project budget materially consistent with the Preliminary Project Budget ("Budget") and proof reasonably acceptable to the City that the Developer has Equity and Lender Financing in amounts adequate to complete the Project

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and satisfy its obligations under this Agreement ("Proof of Financing"). The Proof of Financing shall include binding commitment letters from the Developer's lenders, if any, and evidence of the Developer's ability to make an equity contribution in the amount of any gap in financing.

**SECTION 10. CONDITIONS TO THE CITY'S OBLIGATIONS TO CLOSE.**

The obligations of the City under this Agreement are contingent upon the delivery or satisfaction of each of the following items (unless waived by DPD in its sole discretion) at least fourteen (14) days prior to the Closing Date, unless another time period is specified below:

10.1 Approval of Minor Amendment to TIF Plan. The City Council has approved an ordinance amending Map \_\_\_\_\_ of the TIF Plan by adding "Commercial" as an authorized use for the Project Site, and such ordinance has become effective.

10.2 Budget and Proof of Financing. The Developer has submitted to DPD, and DPD has approved, the Budget and Proof of Financing for the Project in accordance with the provisions of Section 9 hereof. The Developer has furnished proof that the proceeds of the Lender Financing, if any, are available to be drawn upon by the Developer as needed and are sufficient (along with any Equity) to complete the Project. The Developer has delivered to DPD a copy of the construction escrow agreement, if any, entered into by the Developer regarding the Lender Financing. On or prior to the Closing Date, the Developer shall close all Lender Financing, and be in a position to immediately commence construction of the Project.

10.3 Plans. The Developer has submitted to DPD, and DPD has approved, the Plans in accordance with the provisions of Section 11.2 hereof.

10.4 Insurance. The Developer has submitted to the City, and the City has approved, evidence of insurance reasonably acceptable to the City. The City shall be named as an additional insured on all liability insurance policies and as a loss payee (subject to the prior rights of any first mortgagee) on all property insurance policies from the Closing Date through the date the City issues a Certificate of Completion (as

defined in Section 14 below) for the Project. With respect to property insurance, the City will accept either a 2003 ACORD 28 form, or a 2006 ACORD 28 form with a policy endorsement showing the City as a loss payee. With respect to liability insurance, the City will accept an ACORD 25 form, together with a copy of the endorsement that is added to the Developer's policy showing the City as an additional insured.

10.5 Legal Opinion. The Developer has submitted to the Corporation Counsel, and the Corporation Counsel has approved, a legal opinion in a form reasonably acceptable to the City.

10.6 Due Diligence. The Developer has submitted to the Corporation Counsel the following due diligence searches in its name, showing no unacceptable liens, litigation, judgments or filings, as reasonably determined by the Corporation Counsel:

- (a) Bankruptcy Search, U. S. Bankruptcy Court for the N.D. Illinois;
- (b) Pending Suits and Judgments, U. S. District Court for the N.D. Illinois;
- (c) Federal Tax Lien Search, Illinois Secretary of State;
- (d) UCC Search, Illinois Secretary of State;
- (e) UCC Search, Cook County Recorder;

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- (f)
- (g)
- (h) (i)

Federal Tax Lien Search, Cook County Recorder; State Tax Lien Search, Cook County Recorder; Memoranda of Judgments Search, Cook County; and Pending Suits and Judgments, Circuit Court of Cook County.

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

10.7 Organization and Authority Documents. The Developer has submitted to the Corporation Counsel its articles of incorporation, including all amendments thereto, as furnished and certified by the Illinois Secretary of State, and copies of its by-laws, as certified by the secretary of the corporation. The Developer has submitted to the Corporation Counsel resolutions authorizing it 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; and such other corporate authority and organizational documents as the City may reasonably request.

10.8 Economic Disclosure Statement. The Developer has provided to the Corporation Counsel an Economic Disclosure Statement, in the City's then current form, dated as of the Closing Date.

10.9 Subordination Agreement. The Developer has provided to the Corporation Counsel a subordination agreement in a form reasonably acceptable to the City, to be executed and recorded on or prior to the Closing Date, subordinating any liens against the Project Site related to the Lender Financing, if any, to certain encumbrances of the City set forth herein.

10.10 MBE/WBE and City Residency Hiring Compliance Plan. The Developer and the Developer's general contractor and all major subcontractors have met with staff from DPD regarding compliance with the MBE/WBE, city residency hiring and other requirements set forth in Section 24, and DPD has approved the Developer's compliance plan in accordance with Section 24.4.

10.11 Title and Survey. The Developer has furnished the City with a pro forma Title Policy for the City Property and a copy of any survey prepared for the Project Site.

10.12 Representations and Warranties. On the Closing Date, each of the representations and warranties of the Developer in Section 25 and elsewhere in this Agreement shall be true and correct.

10.13 Other Obligations. On the Closing Date, the Developer shall have performed all of the other obligations required to be performed by the Developer under this Agreement as and when required under this Agreement.

10.14 Reconveyance Deed. Prior to the conveyance of the City Property to the Developer, the Developer shall deliver to the City a special warranty deed for the Project Site in

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recordable form naming the City as grantee ("Reconveyance Deed"), for possible recording in accordance with Section 20 below, if applicable.

If any of the conditions in this Section 10 have not been satisfied to DPD's reasonable satisfaction within the time periods provided for herein, DPD may, at its option, upon thirty (30) days' prior written notice to Developer, terminate this Agreement 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, neither party shall have any further right, duty or obligation hereunder; provided, however, that if within said thirty (30) day notice period Developer satisfies said condition(s), then the termination notice shall be deemed to have been withdrawn. Any forbearance by DPD in exercising its right to terminate this Agreement upon a default hereunder shall not be construed as a waiver of such right.

## **SECTION 11. CONSTRUCTION REQUIREMENTS.**

11.1 Final Governmental Approvals. The Developer has submitted to DPD, and DPD has approved, evidence that it has received all Governmental Approvals necessary to complete the Project, including, without limitation, evidence that the City Council has passed the Vacation and Dedication Ordinances, and that the associated plats of vacation and dedication have been recorded.

11.2 Plans and Permits. The Developer shall construct the Project on the Project Site materially in accordance with the master site plan, landscape plan and building elevations prepared by the Architect and attached hereto as Exhibit C, and the final plans and specifications prepared by the Architect dated October 15, 2012, which have been approved by DPD and which are incorporated herein by this reference ("Plans"). If the Developer submits and DPD approves revised plans and specifications after the Effective Date, the term "Plans" as used herein shall refer to the revised plans and specifications upon DPD's written approval of the same. No material deviation from the Plans may be made without the prior written approval of DPD. The Plans shall at all times conform to the TIF Plan and all applicable Laws.

11.3 Relocation of Utilities, Curb Cuts and Driveways. The Developer shall be solely responsible for

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

11.4 City's Right to Inspect Project Site. For the period commencing on the Closing Date and continuing through the date the City issues the Certificate of Completion, any duly authorized representative of the City shall have access to the Project Site at all reasonable times for the purpose of determining whether the Developer is constructing the Project in accordance with the terms of this Agreement and all applicable Laws.

11.5 Barricades and Signs. The Developer shall, at its sole cost and expense, erect and maintain such signs as the City may reasonably require during the Project, identifying the site as a City redevelopment project. The City reserves the right to include the name,

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photograph, artistic rendering of the Project and other pertinent information regarding the Developer, the Project Site and the Project in the City's promotional literature and communications. Prior to the commencement of any construction activity requiring barricades, the Developer shall install barricades of a type and appearance satisfactory to the City and constructed in compliance with all applicable Laws. DPD shall have the right to approve the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades. The Developer 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 Project Site.

11.6 Survival. The provisions of this Section 11 shall survive the Closing.

## **SECTION 12. 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 approval constitute an approval of the quality, structural soundness or safety of any improvements located or to be located on the Project Site, or the compliance of said improvements with any Laws, private covenants, restrictions of record, or any agreement affecting the Project Site or any part thereof.

## **SECTION 13. COMMENCEMENT AND COMPLETION OF PROJECT.**

The Developer shall commence construction of the Project no later than October 31, 2015, and shall complete the Project (as evidenced by the issuance of the Certificate of Completion) no later than October 31, 2016, provided, however, DPD, in its sole discretion, may extend the construction commencement and completion dates by up to six (6) months each (or twelve (12) months in the aggregate). The Developer shall give written notice to the City within five (5) days after it commences construction. The Developer shall construct the Project in accordance with the Plans and all Laws and covenants and restrictions of record.

## **SECTION 14. CERTIFICATE OF COMPLETION.**

The Developer shall request from the City a certificate of completion ("Certificate of Completion") upon the completion of the Project in accordance with this Agreement. Within forty-five (45) days after receipt of a

written request by the Developer for a Certificate of Completion, the City shall provide the Developer with either the Certificate of Completion or a written statement indicating in adequate detail how the Developer has failed to complete the Project in conformity with this Agreement, or is otherwise in default, and what measures or acts will be necessary, in the sole opinion of the City, for the Developer to take or perform in order to obtain the Certificate of Completion. If the City requires additional measures or acts to assure compliance, the Developer 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 the Developer's obligations to construct the Project. The Certificate of Completion shall not, however, constitute evidence that the Developer 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. Nor shall the Certificate of Completion release the Developer from its obligation to comply with the other terms, covenants and conditions of this Agreement.

**SECTION 15. RESTRICTIONS ON USE.**

The Developer, for itself and its successors and assigns, agrees as follows:

15.1 The Developer shall use the Project Site in compliance with the TIF Plan.

15.2 The Developer 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 sale, lease, rental, use or occupancy of the Project Site or the Project or any part thereof.

15.3 The Developer shall construct the Project in accordance with this Agreement, the Plans, and all Laws and covenants and restrictions of record.

The Developer, for itself and its successors and assigns, acknowledges and agrees that the development and use restrictions set forth in this Section 15 constitute material, bargained-for consideration for the City and are intended to further the public policies set forth in the TIF Plan.

**SECTION 16. PROHIBITION AGAINST SALE OR TRANSFER OF PROJECT SITE.**

Prior to the issuance of the Certificate of Completion, the Developer 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 Project Site or any part thereof or any interest therein or the Developer's controlling interests therein (including, without limitation, a transfer by assignment of any beneficial interest under a land trust); or (b) directly or indirectly assign this Agreement. The Developer 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 the Developer fails to submit sufficient evidence of the financial responsibility, business background and reputation of the proposed purchaser, transferee or assignee. If the Developer is a business entity, no principal party of the Developer (e.g., a general partner, member, manager or shareholder) may sell, transfer or assign any of its interest in the entity prior to 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. The Developer must disclose the identity of all limited partners to the City at the time such limited partners obtain an interest in the Developer. The provisions of this Section do not apply to Developer's Existing Business on



the adjacent property.

**SECTION 17. LIMITATION UPON ENCUMBRANCE OF PROJECT SITE.**

Prior to the issuance of the Certificate of Completion for the Project, the Developer 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 Project Site, except for any Lender Financing approved pursuant to Section 9, which shall be limited to funds necessary to construct the Project. The provisions of this Section do not apply to Developer's Existing Business on the adjacent property.

**SECTION 18. MORTGAGEES NOT OBLIGATED TO CONSTRUCT.**

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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) 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 19 and, at Closing, shall execute a subordination agreement in accordance with Section 10.10. If any such mortgagee or its affiliate succeeds to the Developer's interest in the Project Site 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 Project Site 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 19.

**SECTION 19. COVENANTS RUNNING WITH THE LAND.**

The parties agree, and the Deed shall so expressly provide, that the covenants, agreements, releases and other terms and provisions contained in Section 13 (Commencement and Completion of Project), Section 15 (Restrictions on Use), Section 16 (Prohibition Against Sale or Transfer of Project Site), Section 17 (Limitation Upon Encumbrance of Project Site), and Section 23.4 (Release for Environmental Conditions), touch and concern and shall be appurtenant to and shall run with the Project Site. Such covenants, agreements, releases and other terms and provisions shall be binding on the Developer and its successors and assigns (subject to the limitation set forth in Section 18 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. Such covenants, agreements, releases and other terms and provisions shall terminate as follows: Sections 13, 15.3, 16 and 17 upon the issuance of the Certificate of Completion; Section 15.1 upon the expiration of the TIF Plan; and Sections 15.2 and 23.4 with no limitation as to time.

**SECTION 20. PERFORMANCE AND BREACH.**

20.1 Time of the Essence. Time is of the essence in the Developer's performance of its obligations under this Agreement.

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

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

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

(c) the making or furnishing by the Developer of any warranty, representation, statement, certification, schedule or report to the City (whether in this

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Agreement, an Economic Disclosure Statement, or another document) which is untrue or misleading in any material respect;

(d) except as otherwise permitted hereunder, the creation (whether voluntary or involuntary) of, or any attempt to create, any lien or other encumbrance upon the Project Site, or the making or any attempt to make any levy, seizure or attachment thereof;

(e) the commencement of any proceedings in bankruptcy by or against the Developer or for the liquidation or reorganization of the Developer, or alleging that the Developer is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of the Developer's debts, whether under the United States Bankruptcy Code or under any other state or federal law, now or hereafter existing, for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving the Developer; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;

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

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

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

(i) the dissolution of the Developer; and

(j) the occurrence of a material and adverse change in the Developer's financial condition or operations.

20.3 Cure. If the Developer defaults in the performance of its obligations under this Agreement, the Developer shall have thirty (30) 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 the Developer 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 or any other provision of this Agreement to the contrary:

(a) there shall be no notice requirement with respect to Events of Default described in Section 5 (with respect to Outside Closing Date); and

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(b) there shall be no notice requirement or cure period with respect to Events of Default described in Section 13 (Commencement and Completion of Project), Section 16 (Prohibition Against Transfer of Project Site) and Section 17 (Limitation Upon Encumbrance of Project Site).

20.4 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 20.3 above, the City may terminate this Agreement, institute any action or proceeding at law or in equity against the Developer, or retain the Earnest Money and Performance Deposit as liquidated damages.

20.5 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 20.3 above, the City may terminate this Agreement and exercise any and all remedies available to it at law or in equity or under this Agreement, including the right to revest title to the Project Site in the City pursuant to the Reconveyance Deed; provided, however, the City's recording of the Reconveyance Deed shall not defeat, render invalid, or limit in any way, the lien of any mortgage authorized by this Agreement. If the Reconveyance Deed is recorded by the City, the Developer shall be responsible for all real estate taxes and assessments which accrued during the period the Project Site was owned by the Developer, and shall cause the release of all liens or encumbrances placed on the Project Site during the period of time the Project Site was owned by the Developer. The Developer will cooperate with the City to ensure that if the City records the Reconveyance Deed, such recording is effective for purposes of transferring title to the Project Site to the City, subject only to those title exceptions that were on title as of the date and time that the City conveyed the Project Site to the Developer.

20.6 Resale of the Project Site. Upon the reconveyance of title to the Project Site to the City as provided in Section 20.5. the City may complete the Project or convey the Project Site, 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 19.

20.7 Disposition of Resale Proceeds. If the City sells the Project Site as provided for in Section 20.6, 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 Project Site (less any income derived by the City from the Project Site in connection with such management); and

(b) all unpaid taxes, assessments, and water and sewer charges assessed against the Project Site; and

(c) any payments made (including, without limitation, reasonable attorneys' fees and court

costs) to discharge or prevent from attaching or being made any

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subsequent encumbrances or liens due to obligations, defaults or acts of the Developer; 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 the Developer.

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

**SECTION 21. CONFLICT OF INTEREST; CITY'S REPRESENTATIVES NOT INDIVIDUALLY LIABLE.**

The Developer represents and warrants that no agent, official or employee of the City shall have any personal interest, direct or indirect, in the Developer, this Agreement, the Project Site 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 the Developer or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the Developer or successor or with respect to any commitment or obligation of the City under the terms of this Agreement.

**SECTION 22. INDEMNIFICATION.**

The Developer agrees to indemnify, defend and hold the City harmless from and against any Losses suffered or incurred by the City arising from or in connection with: (a) the failure of the Developer to perform its obligations under this Agreement; (b) the failure of the Developer or any 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 the Developer or any Agent; (d) the failure of the Developer to redress any misrepresentations or omissions in this Agreement or any other agreement relating hereto; and (e) any activity undertaken by the Developer or any Agent on the Project Site 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 23. ENVIRONMENTAL MATTERS.**

23.1 "AS IS" SALE. THE DEVELOPER ACKNOWLEDGES THAT IT HAS HAD ADEQUATE OPPORTUNITY TO INSPECT AND EVALUATE THE STRUCTURAL, PHYSICAL AND ENVIRONMENTAL CONDITION AND RISKS OF THE CITY PROPERTY AND ACCEPTS THE RISK THAT ANY INSPECTION MAY NOT DISCLOSE ALL MATERIAL MATTERS AFFECTING THE CITY PROPERTY (AND ANY IMPROVEMENTS THEREON). THE DEVELOPER AGREES TO ACCEPT THE CITY PROPERTY IN ITS "AS IS," "WHERE IS" AND "WITH ALL FAULTS" CONDITION AT CLOSING WITHOUT ANY COVENANT, REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND, AS TO THE STRUCTURAL, PHYSICAL OR ENVIRONMENTAL CONDITION OF THE CITY PROPERTY OR THE SUITABILITY OF THE CITY PROPERTY FOR ANY PURPOSE WHATSOEVER. THE

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DEVELOPER ACKNOWLEDGES 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. THE DEVELOPER AGREES THAT IT IS THE DEVELOPER'S SOLE RESPONSIBILITY AND OBLIGATION TO PERFORM ANY ENVIRONMENTAL REMEDIATION WORK AND TAKE SUCH OTHER ACTION AS IS NECESSARY TO PUT THE CITY PROPERTY IN A CONDITION WHICH IS SUITABLE FOR ITS INTENDED USE.

23.2 Right of Entry. The Developer's obligation to purchase the City Property is conditioned upon the Developer being satisfied with the condition of the City Property for the construction, development and operation of the Project. Upon the Developer's request, the City shall grant the Developer the right, at its sole cost and expense, to enter the City Property to inspect the same, perform surveys, environmental assessments, soil tests and any other due diligence it deems necessary or desirable to satisfy itself as to the condition of the City Property. If the Developer determines that it is not satisfied, in its sole discretion, with the condition of the City Property, the Developer may terminate this Agreement by written notice to the City any time prior to the Closing Date, whereupon the City shall return the Performance Deposit to the Developer and 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 the Developer elects not to terminate this Agreement pursuant to this Section 23.2. the Developer shall be deemed satisfied with the condition of the City Property.

23.3 Release and Indemnification. The Developer, on behalf of itself and the other Developer Parties, or anyone claiming by, through, or under the Developer Parties, hereby releases, relinquishes and forever discharges the City Parties from and against any and all Losses which the Developer or any of the Developer Parties ever had, now have, or hereafter may have, whether grounded in tort or contract or otherwise, in any and all courts or other forums, of whatever kind or nature, whether known or unknown, arising out of or in any way connected with, directly or indirectly (a) any environmental contamination, pollution or hazards associated with the City Property or any improvements, facilities or operations located or formerly located thereon, including, without limitation, any release, emission, discharge, generation, transportation, treatment, storage or disposal of Hazardous Substances, or threatened release, emission or discharge of Hazardous Substances; (b) the structural, physical or environmental condition of the City Property, including, without limitation, the presence or suspected presence of Hazardous Substances in, on, under or about the City Property or the migration of Hazardous Substances from or to other property; (c) any violation of, compliance with, enforcement of or liability under any Environmental Laws, including, without limitation, any Losses arising under CERCLA, and (d) any investigation, cleanup, monitoring, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision or other third party in connection or associated with the City Property or any improvements, facilities or operations located or formerly located thereon (collectively, "Released Claims"). Furthermore, the Developer shall defend, indemnify, and hold the City Parties harmless from and against any and all Losses which may be made or asserted by any third parties arising out of or in any way connected with, directly or indirectly, any of the Released Claims.

23.4 Release Runs with the Land. The covenant of release in Section 23.3 shall run with the City Property, and shall be binding upon all successors and assigns of the Developer with respect to the City Property, including, without limitation, each and every person, firm, corporation, limited liability company, trust or other entity owning, leasing, occupying, using or possessing any portion of the City Property under or through the Developer following the date of the Deed. The Developer acknowledges and agrees that the foregoing covenant of release constitutes a material inducement to the City to enter into this Agreement, and that, but for such release, the City would not have agreed to convey the City Property to the Developer. It is expressly agreed and understood by and between the Developer and the City that, should any future obligation of the Developer, or any of the Developer Parties, arise or be alleged to arise in connection with any environmental, soil or other condition of the City Property, neither the Developer, nor any of the Developer Parties, will assert that those obligations must be satisfied in whole or in part by the City because Section 23.5 contains a full, complete and final release of all such claims.

23.5 Survival. This Section 23 shall survive the Closing or any termination of this Agreement (regardless of the reason for such termination).

## **SECTION 24. DEVELOPER'S EMPLOYMENT OBLIGATIONS.**

24.1 Employment Opportunity. The Developer agrees, and shall contractually obligate its various contractors, subcontractors and any Affiliate of the Developer operating on the Project Site (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) Neither the Developer nor any Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Section 2-160-010 et seq. of the Municipal Code, as amended from time to time (the "Human Rights Ordinance"). The Developer 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. The Developer 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, the Developer and each Employer, in all 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, the Developer and each Employer shall (i) present opportunities for training and employment of low and moderate income residents of the City, and (ii) 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.

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(c) The Developer 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), both as amended from time to time, and any regulations promulgated thereunder.

(d) The Developer, in order to demonstrate compliance with the terms of this Section 24.1, shall cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of federal, state and municipal agencies.

(e) The Developer 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 Project Site, 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 24.1 shall be a basis for the City to pursue remedies under the provisions of Section 20.

#### 24.2 City Resident Employment Requirement.

(a) The Developer agrees, and shall contractually obligate each Employer to agree, that during the construction of the Project, the Developer 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 (at least fifty percent); provided, however, that in addition to complying with this percentage, the Developer 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) The Developer 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 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) The Developer 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. The Developer and the Employers shall maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

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(e) The Developer 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 the Developer or Employer hired the employee should be written in after the employee's name.

(f) The Developer 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. The Developer 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, the Developer 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 the Developer 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 achievement of the requirements of this Section 24.2 concerning the worker hours performed by actual Chicago residents.

(i) If the City determines that the Developer or an Employer failed to ensure the fulfillment of the requirements of this Section 24.2 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 24.2. If such non-compliance is not remedied in accordance with the breach and cure provisions of Section 20.3, the parties agree that 1/20 of 1 percent (.05%) of the aggregate hard construction costs set forth in the Budget shall be surrendered by the Developer to the City in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject the Developer 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) The Developer shall cause or require the provisions of this Section 24.2 to be included in all construction contracts and subcontracts related to the construction of the Project.

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24.3 Developer's MBE/WBE Commitment. The Developer agrees for itself and its successors and assigns, and, if necessary to meet the requirements set forth herein, shall contractually obligate the general contractor to agree, that during the 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 (the "Procurement Program"), and (ii) the Minority- and Women-Owned Business Enterprise Construction Program, Section 2-92-650 et seq., Municipal Code (the "Construction Program," and collectively with the Procurement Program, the "MBE/WBE Program"), and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this Section 24.3, 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.

(b) For purposes of this Section 24.3 only:

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

(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, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by the Developer) or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of (i) the MBE or WBE participation in such joint venture, or (ii) the amount of any actual work performed on the Project by the MBE or WBE); by the Developer utilizing a MBE or a WBE as the general contractor (but only to the extent of any actual work performed on the Project by the general contractor); by subcontracting or causing the general contractor to subcontract a portion of the construction of the Project to one or more MBEs or WBEs; by the purchase of materials or services used in

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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 the Developer's MBE/WBE commitment as described in this Section 24.3. In accordance with Section 2-92-730, Municipal Code, the Developer shall not substitute any MBE or WBE general contractor or subcontractor without the prior written approval of DPD.

(d) The Developer shall deliver quarterly reports to the City's monitoring staff during the construction of the Project describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports shall include, inter alia, the name and business address of each MBE and WBE solicited by the Developer or the general contractor to work on the Project, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the 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 the Developer's compliance with this MBE/WBE commitment. The Developer shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs in connection with the 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 the Developer, on prior notice of at least five (5) business days, to allow the City to review the Developer's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the construction of the Project.

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

(f) Any reduction or waiver of the Developer's MBE/WBE commitment as described in this Section 24.3 shall be undertaken in accordance with Sections 2-92-450 and 2-92-730, Municipal Code, as applicable.

24.4 Pre-Construction Conference and Post-Closing Compliance Requirements. Not less than fourteen (14) days prior to the Closing Date, the Developer and the Developer's general contractor and all major subcontractors shall meet with DPD monitoring staff regarding compliance with all Section 24 requirements. During this pre-construction meeting, the Developer shall present its plan to achieve its obligations under this Section 24, the sufficiency of which the City's monitoring staff shall approve as a precondition to the Closing. During the construction of the Project, the Developer shall submit all documentation required by this Section 24 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 MBE/WBE 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

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of the documentation, that the Developer is not complying with its obligations under this Section 24, shall, upon the delivery of written notice to the Developer, be deemed an Event of Default. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (x) issue a written demand to the Developer to halt construction of the Project, (y) withhold any further payment of any City funds to the Developer or the general contractor, or (z) seek any other remedies against the Developer available at law or in equity.

## **SECTION 25. REPRESENTATIONS AND WARRANTIES.**

25.1 Representations and Warranties of the Developer. To induce the City to execute this Agreement and perform its obligations hereunder, the Developer represents, warrants and covenants to the City that as of the Effective Date and as of the Closing Date the following shall be true, accurate and complete in all respects:

(a) The Developer is a corporation duly organized, 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 Project Site, and the person signing this Agreement on behalf of the Developer has the authority to do so.

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

(c) The Developer'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, any other agreement to which the Developer, or any party affiliated with the Developer, is a party or by which the Developer or the Project Site is bound.

(d) No action, litigation, investigation or proceeding of any kind is pending or threatened against the Developer, or any party affiliated with the Developer, by or before any court, governmental commission, board, bureau or any other administrative agency, and the Developer knows of no facts which could give rise to any such action, litigation, investigation or proceeding, which could: (i) affect the ability of the Developer to perform its obligations hereunder; or (ii) materially affect the operation or financial condition of the Developer.

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

(f) The Developer has and shall maintain all Governmental Approvals (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to construct, complete and operate the Project.

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

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(h) The Project will not violate: (i) any applicable Laws, including, without limitation, any zoning and building codes and Environmental Laws; or (ii) any building permit, restriction of record or other agreement affecting the Project Site.

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

25.3 Survival of Representations and Warranties. Each of the parties agrees that all warranties, representations, covenants and agreements contained in this Section 25 and elsewhere in this Agreement are true, accurate and complete as of the Effective Date and shall survive the Effective Date and be in effect throughout the term of the Agreement.

## **SECTION 26. 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 following means: (a) personal service; (b) facsimile; (c)

overnight courier; or (d) registered or certified first class mail, postage prepaid, return receipt requested:

If to the City: City of Chicago  
Department of Planning & Development 121 North  
LaSalle Street, Room 1003 Chicago, Illinois 60602 Attn:  
47th/HalstedTIF

With a copy to: City of Chicago Department of Law  
121 North LaSalle Street, Suite 600 Chicago, Illinois  
60602 Attn: Real Estate and Land Use Division

If to the Developer: Ultimate Gas & Mini Mart, Inc.  
4240-58 West South Wentworth Chicago,  
Illinois 60609

With a copy to: Mark J. Kupiec and Associates  
77 West Washington Street Chicago, IL  
60602

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

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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 26 shall constitute delivery.

## **SECTION 27. BUSINESS RELATIONSHIPS.**

The Developer acknowledges (a) receipt of a copy of Section 2-156-030 (b) of the Municipal Code, (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), 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. The Developer hereby represents and warrants that no violation of Section 2-145-030 (b) has occurred with respect to this Agreement or the transactions contemplated hereby.

## **SECTION 28. PATRIOT ACT CERTIFICATION.**

The Developer represents and warrants that neither the Developer nor any Affiliate (as hereafter defined) thereof is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable Laws: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

**SECTION 29. PROHIBITION ON CERTAIN CONTRIBUTIONS PURSUANT TO MAYORAL EXECUTIVE ORDER NO. 2011-4.**

29.1 The Developer agrees that the Developer, any person or entity who directly or indirectly has an ownership or beneficial interest in the Developer of more than 7.5 percent ("Owners"), spouses and domestic partners of such Owners, the Developer's contractors (i.e., any person or entity in direct contractual privity with the Developer 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 (the Developer 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 the Developer, (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.

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29.2 The Developer represents and warrants that from the later of (a) May 16, 2011, or (b) the date the City approached the Developer, or the date the Developer 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.

29.3 The Developer agrees 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) bundle or solicit others to bundle contributions to the Mayor or to his political fundraising committee.

29.4 The Developer agrees 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. 05-1.

29.5 Notwithstanding anything to the contrary contained herein, the Developer agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this Section 29 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.

29.6 If the Developer 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.

29.7 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 the Developer is a party that is (i) formed under the authority of Chapter 2-92 of the Municipal Code; (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, as amended.

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

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

(ii) neither party is married; and

(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, as amended.

**SECTION 30. 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. The Developer understands and will abide by all provisions of Chapters 2-55 and 2-56 of the Municipal Code.

**SECTION 31. WASTE ORDINANCE PROVISIONS.**

In accordance with Section 11-4-1600(e) of the Municipal Code, Developer warrants and represents that it, and to the best of its knowledge, its contractors and subcontractors, have not violated and are not in violation of any provisions of Section 7-28 or Section 11-4 of the Municipal Code (the "Waste Sections"). During the period while this Agreement is executory, Developer's, any general contractor's or any subcontractor's violation of the Waste Sections, whether or not relating to the performance of this Agreement, constitutes a breach of and an event of default under this Agreement, for which the opportunity to cure, if curable, will be

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granted only at the sole designation of the Commissioner of DPD. Such breach and default entitles the City to all remedies under the Agreement, at law or in equity. This section does not limit the Developer's, general contractor's and its subcontractors' duty to comply with all applicable Laws, in effect now or later, and whether or not they appear in this Agreement. Noncompliance with these terms and conditions may be used by the City as grounds for the termination of this Agreement, and may further affect the Developer's eligibility for future contract awards.

**SECTION 32. SHAKMAN.**

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

32.2 Developer is aware that City policy prohibits City employees from directing any individual to apply for a position with Developer, either as an employee or as a subcontractor, and from directing Developer to hire an individual as an employee or as a subcontractor. Accordingly, Developer must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel provided by Developer under this Agreement are employees or subcontractors of Developer, 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 Developer.

32.3 Developer 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.

32.4 In the event of any communication to Developer by a City employee or City official in violation of Section 32.2 above, or advocating a violation of Section 32.3 above, Developer 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. Developer will also cooperate with any inquiries by IGO Hiring Oversight or the Shakman Monitor's Office related to the contract.

### **SECTION 33. FAILURE TO MAINTAIN ELIGIBILITY TO DO BUSINESS WITH THE CITY.**

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

### **SECTION 34. MISCELLANEOUS.**

The following general provisions govern this Agreement:

34.1 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.

34.2 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.

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

34.4 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 benefited by such term.

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

34.6 Force Majeure. Neither the City nor the Developer shall be considered in breach of its obligations under this Agreement in the event of a delay due to unforeseeable events or conditions beyond the



reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder, including, without limitation, fires, floods, strikes, shortages of material 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 the party relying on this section requests an extension in writing within twenty (20) days after the beginning of any such delay.

34.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

34.8 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.

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34.9 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.

34.10 No Waiver. No waiver by the City with respect to any specific default by the Developer shall be deemed to be a waiver of the rights of the City with respect to any other defaults of the Developer, 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.

34.11 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.

34.12 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.

*(Signature Page Follows)*

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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 of Planning & Development

ULTIMATE GAS & MINI MART, INC., an Illinois corporation

By:

Issak H. Sughayar  
Its President & Secretary

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

Frances Cahill  
Assistant Corporation Counsel City of Chicago  
121 North LaSalle Street, Suite 600 Chicago,  
Illinois 60602 (312) 744-6933

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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, \_\_\_\_\_, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Andrew J. Mooney, the Commissioner of Planning and Development of the City of Chicago, an Illinois municipal 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, as said Commissioner, he signed and delivered the foregoing instrument pursuant to authority given by the City of Chicago as his free and voluntary act and as the free and voluntary act and deed of said municipal 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, \_\_\_\_\_, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Issak H. Sughayar, the President and Secretary of Ultimate Gas & Mini Mart, Inc., an Illinois 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 he signed and delivered the foregoing instrument pursuant to authority given by said corporation, as 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

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**EXHIBIT A-1 LEGAL DESCRIPTION OF CITY PROPERTY**

(SUBJECT TO FINAL TITLE AND SURVEY)

**PARCEL 1:**

LOTS 45 AND 46 IN BLOCK 2 OF SUPERIOR COURT SUBDIVISION OF LOT 2 IN SUPERIOR COURT PARTITION OF THE SOUTH 3/8 OF THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 4237-41 SOUTH WELLS STREET  
CHICAGO, ILLINOIS 60609

PERMANENT INDEX NOs. 20-04-223-029-0000,  
20-04-223-030-0000

**PARCEL 2:**

LOT 1 IN MRS. CATHERINE I. PALMER'S SUBDIVISION OF LOTS 38 TO 43, INCLUSIVE, IN BLOCK 2 OF SUPERIOR COURT SUBDIVISION OF LOT 2 IN SUPERIOR COURT PARTITION OF THE SOUTH 3/8 OF THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 224 WEST 43<sup>rd</sup> STREET  
CHICAGO, ILLINOIS 60609

PERMANENT INDEX NO. 20-024-223-033-0000

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**EXHIBIT A-2**

**LEGAL DESCRIPTION OF VACATED PROPERTY**

(SUBJECT TO VACATION ORDINANCE AND FINAL PLAT OF VACATION)

THAT PART OF THE 16-FOOT NORTH-SOUTH ALLEY, LYING WEST OF AND ADJACENT TO THE WEST LINE OF LOTS 29 TO 37 IN BLOCK 2 IN SUPERIOR COURT PARTITION OF THE SOUTH 3/8 OF THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED TO THE SOUTH BY THE NORTH RIGHT OF WAY LINE OF 43<sup>rd</sup> STREET AND BOUNDED TO THE NORTH BY THE EASTERLY EXTENSION OF THE SOUTH LINE OF THE NORTH 18 FEET OF LOT 46 OF SAID SUPERIOR COURT SUBDIVISION, FILED JANUARY 6, 1875 AS CASE NO. 51348, IN COOK COUNTY, ILLINOIS.

ALSO: ALL OF THE 12-FOOT EAST-WEST ALLEY IN MRS. CATHERINE I. PALMER'S SUBDIVISION OF LOTS 38 TO 43, INCLUSIVE, IN BLOCK 2 OF SUPERIOR COURT SUBDIVISION OF LOT 2 IN SUPERIOR COURT PARTITION OF THE SOUTH 3/8 OF THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED JULY 23, 1877 AS DOC. NO. 143796, IN COOK COUNTY, ILLINOIS.

**EXHIBIT A-3**

**LEGAL DESCRIPTION OF DEDICATED PROPERTY**

(SUBJECT TO DEDICATION ORDINANCE AND FINAL PLAT OF DEDICATION)

THE NORTH 18 FEET OF LOT 46 IN BLOCK 2 OF SUPERIOR COURT SUBDIVISION OF LOT 2 IN SUPERIOR COURT PARTITION OF THE SOUTH 3/8 OF THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED July 23, 1877 as DOC. NO. 143796, DEDICATED HEREIN TO THE CITY OF CHICAGO FOR PUBLIC ALLEY PURPOSES, IN COOK COUNTY, ILLINOIS.

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**EXHIBIT B-1 PRELIMINARY PLAT OF VACATION**

(SUBJECT TO VACATION ORDINANCE) [ATTACHED]

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# PLAT OF VACATION

LEGAL DESCRIPTION.

That portion of the 16-Foot North-South Alley, lying West of and adjacent to the West line of Lot 23 to 37 m Block 2 in Superior Court Partition of the South 3/8 of the Northeast 1/4 of Section 4, Township 38 North, Range 14, East of the Third Principal Meridian, bounded to the South by the North Right of Way Line of 43rd Street and bounded to the North by the easterly extension of the south line of Lot 18 feet of Lot 6 of said Superior Court Subdivision, Filed January 6, 1875 as Case No 5134B in Cook County, Illinois. Also, a portion of the 12-foot East-West Alley in 1V3, C. H. Hancock & P. J. McNeil's Subdivision of Lots 38 to 40, Block 2 of Superior Court Subdivision of Lot 2 in Superior Court Partition of the South 3/8 of the Northeast 1/4 of Section 4, Township 38 North, Range 14, East of the Third Principal Meridian, recorded July 23, 1877 as Doc No 143796, in Cook County, Illinois containing 4,779 sq. ft. or 0.11 ACRE, more or less.

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GRAPHIC SCALE

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surveyor's certificate

TO BE VACATED (AREA) TO BE DEDICATED (AREA)

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This professional service con\*o\*ra 10 the elwrcd Illinois Minimum  
Standard for Boundary Survey Given under my hand and seal

ILLINOIS.this dayof AD 2013

BY

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**EXHIBIT B-2 PRELIMINARY PLAT OF DEDICATION**

(SUBJECT TO DEDICATION ORDINANCE) [ATTACHED]



IV

## PLAT OF DEDICATION

The nonh 18 Feel of Lot 46 in Block 2 of Supenor Court Subdivision of If 2 in Supenor Court Partition of the South 3/8 of the Nonheasi 1/4 of Section 4. Townsh\*) 38 North. Range 14. East of the \*Third Pnnapal Mendnn. Recorded Jury 23. 1877 as Doc No 14379G. dedicated heron to the Crty of Chicago for Public alley purposes, in Cook County, Illinois

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### GRAPHIC SCALE

NB9°59'31"W R. AM 177.75\*

**W. ROOT ST.**

(RECORD 66 FT. PUBLIC R 0 W.)

N89°59'31"W R tM 122.75

( IN FEET ) 1 inch = 50 ft.

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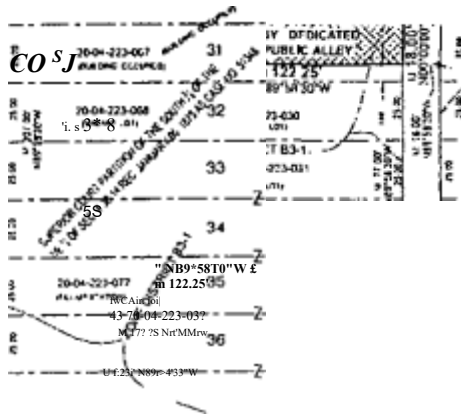
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HEREBY VACATED (AREA) HEREBY DEDICATED (AREA) 1

THE ZONING CLASSIFICATION OF THE PROPERTY SHOWN HERE ON IS B3-1 AND RS 3 AS SET FORTH IN THE CITY OF CHICAGO DEPARTMENT OF ZONING WEBSITE. IF THE SURVEYOR HAS NOT RESEARCHED THE APPLICABLE ZONING BUILDING CODES SETBACK, OR SPECIFIC USES ALLOWED WITHIN THIS ZONING CLASSIFICATION CONTACT THE CITY OF CHICAGO

DEPARTMENT OF ZONING CITY HALL, 171 NORTH LA SALLE STREET, ROOM 900, CHICAGO, ILLINOIS (312) 443-7777 FOR CERTIFICATION VERIFICATION AND SPECIFIC MATTERS; PERTAINING TO THE ABOVE NOTED ZONING CLASSIFICATION; SURVEY

NO. ES  
{ NOU RIM DENOTES RECORD AND MEASURED DISTANCES RESPECT WELY.  
] Dimensions are shown in feet and decimal parts thereof  
! NO DIMENSIONS SHOULD BE ASSUMED BY SCALE MEASUREMENTS UPON THE PLAT  
< FOR BUILDING LINES, CASEMENTS AND OTHER RESTRICTIONS NOT SHOWN HEREON REFER TO  
. YOUR DEED, TITLE POLICY AND LOCAL ZONING ORDINANCES ETC  
, NO DIMENSIONS SHALL BE ASSUMED BY SCALE MEASUREMENT UPON THIS PLAT  
1 UNLESS OTHERWISE NOTED HEREON THE BEARING BASIS ELEVATION DATUM AND COORDINATE  
; Datum if used is assumed

(+U) RE: ISSAK SUGHAYAR PACE  
■ NJURIM 4744-SOUTH WENTWORTH AVE CHICAGO ILLINOIS (1 OF)

:MM SURVEY 745^6

INC.

PROFESSIONAL DESIGN FIRM INC  
REGISTRATION NO. 008666-01  
MEMBERSHIP NO. 008666-01

SCALE  
1 INCH = 40 FEET  
DATE  
MAY 2014

1 CJCKDT# 04-03-11?r3596^

17. jti: suu\745v. ii^, :v7j>^r, "<iw.j ~

Jzm W. 43rd. ST.

(RECORD 60 FT PUBLIC ROW)

ROW EC

LEGEND.

BLOCK AND ROW LINE

LOT LINE VACATION/DEDICATION LINE

- RIGHT OF WAY
- EDGE OF CONCRETE

LINE TYPE

(CONTINUOUS) —

(CENTERX2)

(CONTINUOUS BOLD)-SHADE/ HATCH PATTERN TYPE

(NET) (ANSI31-DASHED2)

TO BE VACATED (AREA) TO BE DEDICATED (AREA)

SURVEYOR'S CERTIFICATE

The following described property was surveyed by M M Surveying Company (inc.) under the supervision of ZIGMUND DOMOZYCH, an Illinois Professional Land Surveyor, and the plat hereon drawn is a correct representation of said survey. This professional service conforms to the current Illinois Minimum Standard for Boundary Survey Given under my hand and seal At \_\_\_\_\_ day of \_\_\_\_\_ A D 2014

By

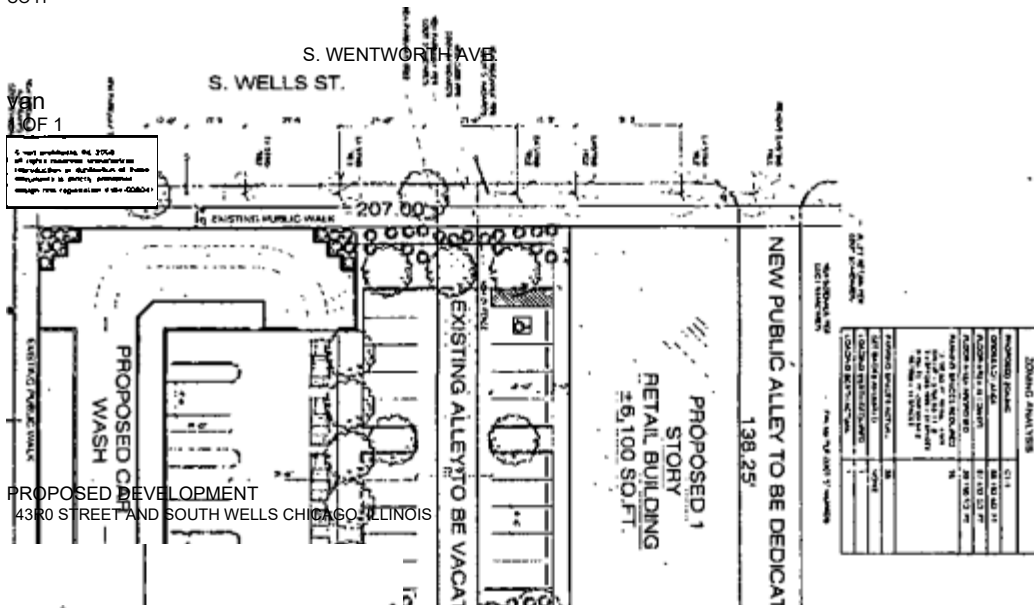
ILLINOIS PROFESSIONAL LAND SURVEYOR NO 35-3758 LIC. EXP 11/30/2014

EXHIBIT C

MASTER SITE PLAN, LANDSCAPE PLAN AND BUILDING ELEVATIONS

[ATTACHED]

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BY TO REMAIN

CITY OF CHICAGO ECONOMIC DISCLOSURE  
STATEMENTS AND AFFIDAVIT

ECONOMIC DISCLOSURE STATEMENTS AND AFFIDAVIT	
DISCLOSING PARTY	ULTIMATE GAS & MINI MART, INC.
DISCLOSING PARTY ADDRESS	4240-58 SOUTH WENTWORTH, CHICAGO, IL 60609
DISCLOSING PARTY PHONE	773-915-1103
DISCLOSING PARTY FAX	
DISCLOSING PARTY EMAIL	
DISCLOSING PARTY CONTACT PERSON	ISSAK SUGHAYAR
DISCLOSING PARTY CONTACT PHONE	
DISCLOSING PARTY CONTACT FAX	
DISCLOSING PARTY CONTACT EMAIL	
DISCLOSING PARTY CONTACT ADDRESS	
DISCLOSING PARTY CONTACT CITY	
DISCLOSING PARTY CONTACT STATE	
DISCLOSING PARTY CONTACT ZIP	
DISCLOSING PARTY CONTACT COUNTRY	

SECTION I - GENERAL INFORMATION

A. Legal name of Disclosing Party submitting this EDS, included by/ if applicable: Ultimate Gas & Mini Mart, Inc.

Check ONE of the following three boxes:

- Indicate whether Disclosing Party submitting this EDS is:
- the Applicant  
OR
  - a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which Disclosing Party holds an interest:  
OR
  - a legal entity with a right of control (see Section I(B)(1)). State the legal name of the entity in which the Disclosing Party holds a right of control:

B. Business address of Disclosing Party: 4240-58 South Wentworth Chicago IL 60609

C. Telephone: 773-915-1103 Fax: Email:

D. Name of contact person: Issak Sughayar

E. Federal Employer Identification No. (if you have one): N/A

F. Brief description of contract, transaction or other undertaking (referred to below as the " Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Negotiated Sale of City lots at 4237-41 S. Wells / 224 W. 43rd St., Chicago

G. Which City agency or department is requesting this EDS? Dept. of Planning and Development

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # N/A and Contract # N/A

Ver. 01-01-12

Page 1 of 13

SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

A. NATURE OF DISCLOSING PARTY

[[[[[

1. Indicate the nature of the Disclosing Party:

- Person  Limited liability company
- Publicly registered business corporation  Limited liability partnership
- Privately held business corporation  Joint venture
- Sole proprietorship  Not-for-profit corporation
- General partnership (Is the not-for-profit corporation also a 501(c)(3))?
- Limited partnership  Yes  No
- Trust  Other (please specify)

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

IL

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

Yes

No

N/A

**B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:**

1. List below the full names and titles of all executive officers and all directors of the entity. NOTE: For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party. NOTE: Each legal entity listed below must submit an EDS on its own behalf.

Name Title

Issak H. Sughayar

President and Secretary

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

Page 2 of 13

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." NOTE: Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
Issak H. Sughavar	4240-58 S. Wentworth. Chicago	50%.
Hanady I. Sughayar	4240-58 S. Wentworth, Chicago	50%

SECTION III - - BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

Yes                       No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

*NIA*

SECTION IV - DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTHES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Page 3 of 13

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) NOTE: "hourly rate" or "t.b.d" is not an acceptable response.
--	------------------	--	--

Retained: Kupiec & Assoc. 77 W. Washington St. Ste. 1801, Chicago; Attorneys; Estimated \$15,000

Retained: Vari Architects Ltd. 824 N. Racine Ave.. Chicago: Estimated \$15,000

(Add sheets if necessary)

Check here if the Disclosing party has not retained, nor expects to retain, any such persons or entities.

**SECTION V - CERTIFICATIONS**

**A. COURT-ORDERED CHILD SUPPORT COMPLIANCE**

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

Yes       No       No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

Yes       No

**B. FURTHER CERTIFICATIONS**

1. Pursuant to Municipal Code Chapter I -23, Article I ("Article I") (which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party Submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party Certified as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged With, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty, or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. NOTE: If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

Page 4 of 13

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B. I. of this EDS:
  - a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
  - b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification; or destruction of records; making false statements; or receiving stolen property;
  - c. are not presently indicted for or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;



- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
  - e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.
3. The certifications in subparts 3,4 and 5 concern:
- the Disclosing Party;
  - any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in Connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
  - any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
  - any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Page 5 of 13

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or

partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with (1) the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

N/A

Page 6 of 13

If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none"). N/A

9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient. N/A

### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

is                     is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455 (b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary): N/A

Page 7 of 13

If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

#### D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

Yes                     No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

Yes                       No

3. If you checked "Yes" to Item D. 1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest
------	------------------	--------------------

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

Page 8 of 13

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City

X I. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery, or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

*NA*

**SECTION VI - - CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS**

NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.

**A. CERTIFICATION REGARDING LOBBYING**

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):  
NA

(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

Page 9 of 13

3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A. 1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501 (c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A. 1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

## B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

Yes                       No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable

federal regulations? (See 41 CFR Part 60-2.)

Yes                       No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

Yes                       No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

Yes                       No

If you checked "No" to question 1. or 2. above, please provide an explanation:

Page 10 of 13

SECTION VII - - ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any Contract or other agreement between the Applicant and the City in connection with the Matter, whether Procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics). and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on

the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. NOTE: With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing PERMANENT INELIGIBILITY for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

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F. 1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any One, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2. If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U.S. General Services Administration.

F.3. If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F. 1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications.

"NOTE: If the Disclosing Party cannot certify as to any of the items in F. 1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

Ultimate Gas & Mini Mart, Inc.

(Print or type name of Disclosing Party)

Jssak Sughayar

By:

(Print or type name of person signing)

President

(Print or type title of person signing)

Commission expires

Signed and sworn to before me on (date)

at CoP^ County, ^

(state).<sup>wwWyv</sup>

Notary Public.'<sup>Mv</sup> commission expires:04/23/i6 OFFICIAL SEAL AGNIESZKA T PLECKA NOTARY PUBLIC - STATE OF ILLINOIS

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**CITY OF CHICAGO ECONOMIC DISCLOSURE STATEMENT AND  
AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHPS WITH ELETED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section U.B.l.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

Yes No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.



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