



Office of the City Clerk

City Hall
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Chicago, IL 60602
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Legislation Details (With Text)

File #: O2015-4221
Type: Ordinance
Status: Passed
File created: 5/20/2015
In control: City Council
Final action: 6/17/2015
Title: Loan agreement and associated Tax Increment Financing (TIF) assistance for development of Montclare Senior Residences Supportive Living of Lawndale LLC
Sponsors: Emanuel, Rahm
Indexes: Loan & Security
Attachments: 1. O2015-4221.pdf

Date	Ver.	Action By	Action	Result
6/24/2015	1	City Council	Signed by Mayor	
6/17/2015	1	City Council	Passed	Pass
6/15/2015	1	Committee on Finance	Recommended to Pass	Pass
5/20/2015	1	City Council	Referred	

CHICAGO June 17.2015

To the President and Members of the City Council:

Your Committee on Finance having had under consideration

An ordinance authorizing the Commissioner of the Department of Planning and Development to enter into and execute a Loan Agreement and associated Redevelopment Agreement with Montclare Senior Residence SLF.

02015-4221

Amount of the Loan not to exceed:

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

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

Alderman Burke abstains under provisions of Rule 14.

Respectfully submitted

Chairman

Document No.

REPORT OF THE COMMITTEE ON FINANCE TO THE CITY COUNCIL CITY OF CHICAGO

OFFICE OF THE MAYOR

CITY OF CHICAGO

RAHM EMANUEL
MAYOR

May 20, 2015

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

Ladies and Gentlemen:

At the request of the Commissioner of Planning and Development, I transmit herewith an

ordinance authorizing the execution of a loan agreement and associated TIF assistance for Montclare Senior Residence SLF.

Your favorable consideration of this ordinance will be appreciated.

Mayor

Very truly yours,

ORDINANCE

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

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

WHEREAS, the City has certain funds available from a variety of funding sources ("Multi-Family Program Funds") to make loans and grants for the development of multi-family residential housing to increase the number of families served with decent, safe, sanitary and affordable housing and to expand the long-term supply of affordable housing, and such Multi-Family Program Funds are administered by the City's Department Planning and Development ("DPD"); and

WHEREAS, DPD has preliminarily reviewed and approved the making of a loan to Montclare Senior Residences SLF of Lawndale, LLC, an Illinois limited liability company (the "Borrower") whose manager is Lawndale SLF, LLC, an Illinois limited liability company (the "Manager"), whose managing member is Montclare Lawndale SLF Corp. ("Montclare Corp.") in an amount not to exceed \$3,005,132 (the "Loan"), to be funded from Multi-Family Program Funds pursuant to the terms and conditions set forth in Exhibit A attached hereto and made a part hereof; and

WHEREAS, to induce redevelopment pursuant to the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as amended from time to time (the "Act") the City Council of the City of Chicago adopted ordinances on April 9, 2008 approving a redevelopment plan (the "Ogden/Pulaski Plan") and designating the Ogden/Pulaski Redevelopment Project Area (the "Ogden/Pulaski Area") as a redevelopment project area pursuant to the Act; and

WHEREAS, to induce redevelopment pursuant to the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as amended from time to time (the "Act") the City Council of the City of Chicago adopted ordinances on February 5, 1998 approving a redevelopment plan (the "Roosevelt/Cicero Plan") and designating the Roosevelt/Cicero Redevelopment Project Area (the "Roosevelt/Cicero Area") as a redevelopment project area pursuant to the Act; and

WHEREAS, the City is the owner of the parcels of vacant land (collectively, the "Property") located at 4339-4347 W. 18th Place (the "Development Parcel") and 4314-46 W. 19th Street (the "Alley Parcel"), all in Chicago, Illinois, as legally described on Exhibit B attached hereto and made a part hereof; and

WHEREAS, the City will convey the Development Parcel to the Borrower and convey the Alley Parcel

to the Montclare Corp.; and

WHEREAS, the Property is located within the Ogden/Pulaski Area and the Borrower intends to develop and construct a new five-story supportive living residential facility for seniors on the Development Parcel providing 120 housing residential units, including affordable housing units (the "Project"), as more fully described herein and the Borrower intends to cause the improvement of a

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new public alley on the Alley Parcel and upon completion of the improvement of the alley to cause the dedication of the same to the City; and

WHEREAS, the Borrower and Montclare Corp. have proposed to undertake the redevelopment of the Property in accordance with the Ogden/Pulaski Plan and the Roosevelt/Cicero Plan and pursuant to the terms and conditions of a proposed redevelopment agreement to be executed by the Borrower, the Montclare Corp. and the City, to be financed in part by incremental taxes from the Ogden/ Pulaski Area and the Roosevelt/Cicero Area, if any, deposited in the Ogden/Pulaski Tax Allocation Fund and Roosevelt/Cicero Tax Allocation Fund (as defined in the TIF Ordinance) pursuant to Section 5/11 -74.4-8(b) of the Act to the extent, and in the amount, provided in the Redevelopment Agreement (hereinafter defined); and

WHEREAS, pursuant to Resolution 15-CDC-8, the Commission has recommended that the Borrower and Montclare Corp. be designated as the developer for the Project and that DPD be authorized to negotiate, execute and deliver on behalf of the City a redevelopment agreement with the Borrower and Montclare Corp. for the Project; now therefore,

WHEREAS, Borrower and the Montclare Corp. shall enter into a redevelopment agreement ("Redevelopment Agreement"), in the form attached hereto as Exhibit C. with the City for the negotiated sale of the Development Parcel to Borrower and the Alley Parcel to the Montclare Corp. from the City and application of tax increment financing for the Project, which such Redevelopment Agreement shall include terms reflecting the development of the Project by the Borrower and the Montclare Corp. in accordance with the Plan for the Area; now therefore,

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

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

SECTION 2. Upon the approval and availability of the Additional Financing as shown in Exhibit A hereto, the Commissioner of DPD (the "Commissioner") and a designee of the Commissioner (collectively, the "Authorized Officer") are each hereby authorized, subject to approval by the Corporation Counsel, to enter into and execute such agreements and instruments, and perform any and all acts as shall be necessary or advisable in connection with the implementation of the Loan. The Authorized Officer is hereby authorized, subject to the approval of the Corporation Counsel, to negotiate any and all terms and provisions in connection with the Loan which do not substantially modify the terms described in Exhibit A hereto. Upon the execution and receipt of proper documentation, the Authorized Officer is hereby authorized to disburse the proceeds of the Loan to the Borrower.

SECTION 3. The Borrower and the Montclare Corp. are hereby designated as the developer for the Project pursuant to Section 5/11 -74.4-4 of the Act.

SECTION 4. The Authorized Officer is hereby authorized, subject to the approval of the Corporation Counsel as to form and legality, to negotiate, execute and deliver a Redevelopment Agreement between Borrower, the Montclare Corp. and the City substantially in the form attached hereto as Exhibit C and made a part hereof, 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

EXHIBIT A

Montclare Senior Residences SLF of Lawndale, LLC, an Illinois limited liability company whose manager is Lawndale SLF, LLC, an Illinois limited liability company, whose managing member is Montclare Lawndale SLF Corp. ("Montclare Corp."), and others to be hereafter selected as additional members

Acquisition of land and construction of a building to be located at the Project Property and of approximately 120 senior supportive living dwelling units, including 108 units for low- and moderate-income senior citizens and twelve market rate units for senior citizens and certain common areas and parking spaces, along with certain alley improvements.

Source: Amount: Term: Interest:

Security:

Multi-Family Program Funds Not to exceed \$3,005,132* Not to exceed 43 years

Zero percent per annum, or another interest rate acceptable to the Authorized Officer

Non-recourse loan; mortgage on the Property (the "City Mortgage")

ADDITIONAL FINANCING:

Amount: Approximately \$12,200,000 (the "Construction and Permanent Senior Loan")

Term: Not to exceed 43 years

Source: Love Funding Corporation, through the HUD Section 232 program, or another source acceptable to the Authorized Officer

Interest: A fixed rate of interest not to exceed 4.5 percent per annum Security: Mortgage on the Property senior to the lien of the City Mortgage

Amount: Amount not to exceed \$5,000,000 (the "Bridge Loan")

Term: Not to exceed 24 months

Source: Midland States Bank, or another source acceptable to the Authorized Officer, loan of funds to Montclare Corp. and loaned to the Borrower by Montclare Corp. or contributed as capital to Borrower by Manager, or another source acceptable to the Authorized Officer

Interest: Zero percent per annum, or another interest rate acceptable to the Authorized Officer

Security: Mortgage on the Property junior to the lien of the City Mortgage, or other security acceptable to the Authorized Officer

Low-Income Housing Tax Credit ("LIHTC")

Proceeds: Approximately \$10,210,979, all or a portion of which may be paid in on a delayed basis, and all or a portion of which may be used to repay the Bridge Loan

Source: To be derived from the syndication of approximately \$1,100,000 LIHTC allocation by the City

5. Amount: Approximately \$2,000,000

Term: Not to exceed 43 years

Source: \$1,000,000 in Tax Increment Financing from the Ogden/Pulaski TIF and \$1,000,000 from the Roosevelt/Cicero TIF granted by the City to Montclare Corp., or another source acceptable to the Authorized Officer.

6. Amount: Term: Source:

Interest: Security:

Approximately \$190,936 Not to exceed 43 years

Illinois Department of Commerce and Economic Opportunity grant funds to Montclare Corp. and loaned to the Borrower by Montclare Corp. or contributed as capital to Borrower by Manager, or another source acceptable to the Authorized Officer

Zero percent per annum, or another rate or rates acceptable to the Authorized Officer

Mortgage on the Property junior to the lien of the City Mortgage, or other security acceptable to the Authorized Officer

7. Amount: Amount not to exceed \$850,000

Term: Not to exceed 43 years

Source: Montclare Lawndale SLF Corp, derived from the proceeds of a grant from the Federal Home Loan Bank of Chicago (FHLB) Affordable Housing Program, or another source acceptable to the Authorized Officer

Interest: A fixed rate of interest not to exceed 10 percent per annum, or another interest rate acceptable to the Authorized Officer

Security: Mortgage on the Property junior to the lien of the City Mortgage, or such other security as may be acceptable to the Authorized Officer

Amount: Approximately \$100.00 Source: General Partner Contribution

* The amount of the Loan may be reduced by the grant from FHLB.

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Exhibit B

Property Legal Description (SUBJECT TO FINAL TITLE AND SURVEY) The Development Parcel

PARCEL 1:

LOTS 13 TO 28 INCLUSIVE IN THE RESUBDIVISION OF LOTS 6 TO 12 INCLUSIVE IN W. A. JAMES SUBDIVISION OF LOT 4 (EXCEPT THE WEST 243.54 FEET) IN EXECUTOR'S SUBDIVISION OF LOT 3 IN THE PARTITION OF THE SOUTH EAST 1/4 OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 2:

LOTS 1 TO 4 INCLUSIVE AND LOTS 17 TO 20 IN BLOCK 2 IN S. HAIR'S SUBDIVISION OF THE WEST 243.54 FEET OF LOT 4 IN EXECUTOR'S SUBDIVISION OF LOT 3 IN PARTITION OF THE SOUTH EAST 1/4 OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 3:

THE SOUTH HALF OF THAT PART OF WEST 18TH PLACE AND THE PUBLIC ALLEYS LYING ADJACENT TO SAID

LOTS, VACATED BY ORDINANCE PASSED JUNE 2, 1967 AND RECORDED AUGUST 30, 1967 AS DOCUMENT NO. 20246302, ALL IN COOK COUNTY, ILLINOIS.

EXCLUDING AND EXCEPTING THEREFROM THE FOLLOWING:

THE EAST 18 FEET ALONG WITH THE NORTH 40 FEET OF THE WEST 40 FEET OF THE EAST 58 FEET OF A TRACT OF LAND DESCRIBED AS FOLLOWS:

LOTS 13 TO 28 INCLUSIVE IN THE RESUBDIVISION OF LOTS 6 TO 12 INCLUSIVE IN W. A. JAMES SUBDIVISION OF LOT 4 (EXCEPT THE WEST 243.54 FEET) IN EXECUTOR'S SUBDIVISION OF LOT 3 IN THE PARTITION OF THE SOUTH EAST 1/4 OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, LONG WITH THE SOUTH 1/2 OF THAT PART OF WEST 18TH PLACE AND THE PUBLIC ALLEY LYING ADJACENT TO SAID LOTS, VACATED BY ORDINANCE PASSED JUNE 2, 1967 AND RECORDED AUGUST 30, 1967 AS DOCUMENT NUMBER 20246302, IN COOK COUNTY, ILLINOIS.

Real Estate Address: 4339-4347 W. 18th Place, Chicago, Illinois 60623

Parcel Number: 16-22-409-036-0000 (part of) 16-22-409-037-0000

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The Alley Parcel

THE EAST 18 FEET ALONG WITH THE NORTH 40 FEET OF THE WEST 40 FEET OF THE EAST 58 FEET OF A TRACT OF LAND DESCRIBED AS FOLLOWS:

LOTS 13 TO 28 INCLUSIVE IN THE RESUBDIVISION OF LOTS 6 TO 12 INCLUSIVE IN W. A. JAMES SUBDIVISION OF LOT 4 (EXCEPT THE WEST 243.54 FEET) IN EXECUTOR'S SUBDIVISION OF LOT 3 IN THE PARTITION OF THE SOUTH EAST 1/4 OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, LONG WITH THE SOUTH 1/2 OF THAT PART OF WEST 18TH PLACE AND THE PUBLIC ALLEY LYING ADJACENT TO SAID LOTS, VACATED BY ORDINANCE PASSED JUNE 2, 1967 AND RECORDED AUGUST 30, 1967 AS DOCUMENT NUMBER 20246302, IN COOK COUNTY, ILLINOIS.

Parcel Number: 16-22-409-036-0000 (part of)

Real Estate Address: 4314-46 W. 19th Place, Chicago, Illinois 60623

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Exhibit C

Redevelopment Agreement [SEE ATTACHED]

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MONTCLARE SENIOR RESIDENCES SLF OF LAWNDAL, LLC
REDEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF CHICAGO AND
MONTCLARE SENIOR RESIDENCES SLF OF LAWNDAL, LLC,
AND
MONTCLARE LAWNDAL SLF CORP.

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

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*Legal Description of Ogden/Pulaski Redevelopment Area
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Form of Subordination Agreement
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Opinion of Developer's Counsel
Insurance Requirements

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

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

**MONTCLARE SENIOR RESIDENCES SLF OF LAWDALE, LLC REDEVELOPMENT
AGREEMENT**

This Montclare Senior Residences SLF of Lawndale, LLC Redevelopment Agreement (this "Agreement") is made as of this day of , 2015, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("DPD"), and Montclare Senior Residences SLF of Lawndale, LLC an Illinois limited liability company (the "Developer") and Montclare Lawndale SLF Corp., an Illinois corporation ("Montclare Corp", and together with the Developer, the "Developer Parties"). Capitalized terms not otherwise defined herein shall have the meaning given in Section 2.

RECITALS

A. City Council Authority: To induce redevelopment pursuant to provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11 -74.4-1 et seq. (the "Act") the City Council of the City (the "City Council")) adopted certain ordinances on April 9, 2008, approving a redevelopment plan for Ogden/ Pulaski Tax Increment Financing Redevelopment Project Area (the "Ogden/Pulaski Area"), designating the Area as a "redevelopment project area" under the Act, and adopting tax increment allocation financing for the Ogden/Pulaski Area (collectively, the "Ogden/Pulaski TIF Ordinances"). The Ogden/Pulaski Area is legally described in Exhibit A-1 hereto.

To induce redevelopment pursuant to provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq. (the "Act") the City Council adopted certain ordinances on February 5, 1998, approving a redevelopment plan for Roosevelt /Cicero Tax

Increment Financing Redevelopment Project Area (the "Roosevelt/Cicero Area"), designating the Area as a "redevelopment project area" under the Act, and adopting tax increment allocation financing for the Roosevelt/Cicero Area (collectively, the "Roosevelt/Cicero TIF Ordinances", together with the Ogden/Pulaski TIF Ordinances, the "TIF Ordinances"). The Roosevelt/Cicero Area is legally described in Exhibit A-2 hereto.

B. The Project: The Developer Parties intend to undertake the redevelopment project described in Exhibit B hereto (the "Project"), which includes (i) construction of a 5-story senior supportive living facility comprising a total 120 housing units within the Ogden/Pulaski Area and located on the property commonly known as 4339-4347 W. 18th Place, Chicago, Illinois 60623 and legally described on Exhibit C-1 (the "Development Parcel") and (ii) construction of a new alley within the Ogden/ Pulaski Area and located at the property commonly known as 4314-4316 W. 19 Street, Chicago, Illinois 60623 (the "Alley Parcel", together with the Development Parcel, as legally described on Exhibit C-2, the "Property"). The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement. The Project will be carried out in accordance with this Agreement and the City of Chicago Ogden/Pulaski Tax Increment Financing Redevelopment Project Area Tax Increment Financing Redevelopment Plan and the City of Chicago Roosevelt/Cicero Tax Increment Financing Redevelopment Project Tax Redevelopment Plan (the "Redevelopment Plans").

C. City Financing: The City agrees to use Available Incremental Taxes to reimburse the Developer Parties for the costs of TIF-Funded Improvements pursuant to the terms and conditions of this Agreement.

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

SECTION 1. RECITALS

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

SECTION 2. DEFINITIONS

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

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

"Annual Compliance Report" shall mean a signed report from the Developer to the City (a) itemizing each of the Developer's obligations under the Agreement during the preceding calendar year, (b) certifying the Developer's compliance or noncompliance with such obligations, (c) attaching evidence (whether or not previously submitted to the City) of such compliance or noncompliance and (d) certifying that the Developer is not in default with respect to any provision of the Agreement, the agreements evidencing the Lender Financing, if any, or any related agreements; provided, that

the obligations to be covered by the Annual Compliance Report shall include the following: (1) compliance with the Operating Covenant (Section 8.05); (2) compliance with the Jobs Covenant (Section 8.05); (3) delivery of Financial Statements and audited financial statements (Section 8.09); (4) delivery of updated insurance certificates, if applicable (Section 8.10); (5) delivery of evidence of payment of Non-Governmental Charges, if applicable (Section 8.11); (6) delivery of evidence from the Department of Energy that the office space has been energy star certified and (7) compliance with all other executory provisions of this Agreement.

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

"Available Incremental Taxes" shall mean an amount equal to Incremental Taxes deposited in the Area TIF Fund, as adjusted to reflect the amount of the City Fee, if any, described in Section 4.05 hereof.

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

"Capital Event" shall have the meaning as set forth in Section 4.09 hereof.

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

"Change Order" shall mean any amendment or modification to the Scope Drawings, Plans and Specifications, or the Project Budget as described in Section 3.06.

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

"City Fee" shall mean the fee described in Section 4.05 hereof.

"City Funds" shall mean the funds described in Section 4.02 hereof.

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

"Completion Date" shall mean the date the City issues its Certificate of Completion.

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

"Employer(s)" shall have the meaning set forth in Paragraph F of Exhibit D hereto.

"Environmental Laws" shall mean any and all federal, state or local statutes, laws, regulations,

ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended.

"Equity" shall mean funds of the Developer Parties (other than funds derived from Lender Financing) in an amount not less than that set forth in Section 4.01 hereof.

"Event of Default" shall have the meaning set forth in Section 12 hereof.

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"General Contractor" shall mean the general contractor(s) hired by the Developer Parties for the Project.

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

"Lender Financing" shall mean funds borrowed by the Developer from lenders, if any, and used to pay for Costs of the Project otherwise secured by the Development Parcel.

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

"MBEA7VBE Budget" shall mean the budget attached hereto as Exhibit E-2.

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

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

"Ogden/Pulaski Area" shall have the meaning set forth in the preamble to this Agreement.

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

"Prior Expenditure[^])" shall mean those prior expenditures relating to the Project set forth in Exhibit G hereto.

"Prohibited Use" shall mean a fast-food chain restaurant, a national chain business, a branch bank, an employment agency, a currency exchange, a payday loan store, a pawn shop, a psychic or astrological or palm-reading business, an adult bookstore, a massage parlor, a hotel or motel, an off-track betting facility, a trailer-storage yard, a scrap yard, or any use similar to the preceding uses or otherwise identified in writing by DPD. The Commissioner of DPD shall have the sole discretion to consent to a waiver of any of the foregoing prohibited uses.

"Project Budget" shall mean the budget attached hereto as Exhibit E-1, showing the total cost of the Project by line item, as the same may be amended from time to time with the consent of DPD.

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

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"Reimbursement Event" shall mean an act or omission by the Developer Parties or its Affiliate resulting in an Event of Default relating to: (i) a material misrepresentation to the City related to the Project that the City relied upon (as reasonably determined by the City) in its decision to provide City Funds for the Project or to pay any such City Funds to the Developer Parties; (ii) a fraudulent act or omission related to the Project; (iii) a misappropriation of funds from the uses set forth in the Project Budget resulting in the receipt by the Developer Parties or its Affiliates of additional fees, commissions or compensation not disclosed in such Project Budget or otherwise approved in writing by DPD; (iv) any intentional or material waste to the Project improvements or any portion thereof; (v) any unapproved use of City Funds for payment or reimbursement of amounts other than costs of the TiF-Funded Improvements; (vi) a breach of the transfer and assignment restrictions contained in this Agreement; (vii) any material breach of the representations, warranties or covenants regarding environmental matters contained in this Agreement, as applicable; (viii) the occurrence of any material uninsured casualty event to any portion of the Project improvements unless the portion of the improvements damaged by such event is restored within a reasonable period of time; (ix) material misappropriation or misapplication of insurance proceeds or condemnation awards relating to the Project; (x) any material misrepresentation in any Economic Disclosure Statements and Affidavit submitted by the Developer Parties or its Affiliates; (xi) any receipt of City Funds after the occurrence of an Event of Default, or the occurrence of an event which, if prompt notice of such event had been given, would have entitled the City to withhold, suspend, reduce or terminate the disbursement of such City Funds under this Agreement.

"Requisition Form" shall mean the document, in the form attached hereto as Exhibit H, to be delivered by the Developer Parties to DPD pursuant to Section 4.03 of this Agreement.

"Roosevelt/Cicero Area" shall have the meaning set forth in the preamble to this Agreement.

"Survey" shall mean a survey of the Property prepared in accordance with Minimum Standard Detail Requirements adopted for ALTA/ACSM Land Title Surveys (2011 Revision), including such Table A requirements as the City may reasonably require, dated within 45 days prior to the Closing Date, acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State of Illinois, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and updates thereof to reflect improvements to the Property resulting from the Project, if any).

"Term of the Agreement" shall mean the period of time commencing on the Closing Date and ending on the earlier to occur of: (a) the date on which the Area is no longer in effect, and (b) the date on which the final payment of City Funds is made under this Agreement.

"TiF-Funded Improvements" shall mean those improvements of the Project which (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Redevelopment Plans and (iii) the City has agreed to pay for out of the City Funds, subject to the terms of this Agreement, as set forth on Exhibit I, as the same may be amended with DPD's consent.

"Title Company" shall mean Chicago Title Insurance Company.

"Title Policy" shall mean a title insurance policy in the most recently revised ALTA or equivalent form, showing Developer as the insured with respect to the Development Parcel and Montclare Corp. as the insured with respect to the Alley Parcel, noting the recording of this

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Agreement as an encumbrance against the Property and lender's consent and subordination agreement in favor of the City with respect to previously recorded liens against the Development Parcel related to Lender Financing, if any, issued by the Title Company, provided, however, that this Agreement shall be subject to and subordinate to that (a) certain loan from Love Funding Corporation in the amount of \$12,200,000 (the "HUD Loan") insured by the United States Department of Housing and Urban Development ("HUD"), and (b) the Regulatory Agreement executed by the Developer and the City in connection with the federal low-income housing tax credits allocated to the Project ("LIHTC Regulatory Agreement"). The Title Policy with respect to the Alley Parcel shall be a minimum value of \$10,000 and without any endorsements.

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

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

SECTION 3. THE PROJECT

1 The Project. The Developer Parties will complete the Project no later than December 31, 2017, or such later date as to which DPD may consent.

2 Project Budget. The Developer has furnished to DPD, and DPD has approved, the Project Budget. The Developer hereby certifies to the City that (a) the City Funds, together with Lender Financing and Equity shall be sufficient to complete the Project, and (b) the Project Budget is true, correct and complete in all material respects.

3 DPD Approval. Any approval granted by DPD of the Scope Drawings, Plans and Specifications and the Change Orders is for the purposes of this Agreement only and does not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval, nor does any approval by DPD pursuant to this Agreement constitute approval of the quality, structural soundness or safety of the Property or the Project or otherwise lessen the Developer Parties' obligations under Section 5.02.

4 Survey Update. On the Completion Date, the Developer Parties shall provide an updated Survey of the Development Parcel if the Project added new improvements to the Property.

5 Signs and Public Relations. The Developer shall erect a sign in accordance with a template provided by DPD, and subject to final approval by DPD, in a conspicuous location on the Property during the Project indicating that financing has been provided by the City.

6 Change Orders. Except as provided below, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to material changes to the Project must be submitted by the Developer to DPD concurrently with the progress reports described in Section 3.07 hereof;

provided, that any Change Order relating to any of the following must be submitted by the Developer to DPD for DPD's prior written approval: (a) a reduction in the square footage of the Project; (b) a change in the use of the Property; (c) a delay of more than three

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months in the completion of the Project; or (d) all Change Orders increasing or decreasing any line item in the Project Budget. The Developer shall not authorize or permit the performance of any work relating to any such Change Order or the furnishing of materials in connection therewith prior to the receipt by the Developer of DPD's written approval (to the extent required in this Section). The Construction Contract, and each contract between one or more of the Developer Parties and any contractor, shall contain a provision to this effect. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds which the City has pledged pursuant to this Agreement or provide any other additional assistance to the Developer Parties.

3.07 Progress Reports. Developer shall provide DPD with written quarterly progress reports detailing the status of the Project, including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring DPD's written approval pursuant to Section 3.06V

SECTION 4. FINANCING

4.01 Total Project Cost and Sources of Funds. The cost of the Project is estimated to be \$27,607,047, which the Developer Parties will initially fund from the following sources:

Sources

Multifamily Program Loan

TIF

Equity

Lender Financing State of Illinois Grant Bridge Loan"

Federal Home Loan Bank Grant"

Amount

\$3,005,132

\$2,000,000

\$10,210,979

\$12,200,000

\$190,936

\$5,000,000

\$850,000

These noted sources will be used to either reduce other listed sources or be used to bridge other listed sources that are not available to the Project when needed to pay Project costs. These sources will not increase the cost of the Project.

4.02 Reimbursement from City Funds. City Funds may only be used to reimburse the Developer Parties for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs. Exhibit I sets forth the maximum amount of costs that may be reimbursed from City Funds for each line item therein, contingent upon receipt by the City of documentation satisfactory to DPD. In no event shall the City reimburse the Developer Parties in excess of \$2,000,000.

Subject to the terms and conditions of this Agreement, the City hereby agrees to provide funds solely from Available Incremental Taxes to reimburse Montclare Corp. for the cost of TIF-Funded Improvements up to the maximum

amount determined under the last sentence of the preceding paragraph (the "City Funds"). Montclare Corp. intends to cause the City Funds to be (a) loaned to Developer on terms currently expected to be as follows: (i) a term not to exceed 43 years, (ii) at an interest rate of 0% per annum, and (iii) a third lien mortgage on the Developer Parcel, or (b) capitally contributed to the Developer. City Funds derived from Available Incremental Taxes shall be available to pay such costs and allocated for such purposes only so long as:

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- i) The amount of the Available Incremental Taxes is sufficient to pay for such costs;
- and
- ii) The City has been paid the City Fee, if any, described in Section 4.05 below.

City Funds shall be paid or reimbursed to Montclare Corp. in two (2) payments pursuant to the following schedule of payment:

-At Fifty Percent (50%) completion of the Project, as determined by DPD (Ogden Pulaski TIF)	\$1,000.000
-Issuance of the Certificate (Roosevelt Cicero TIF)	\$1,000,000

The Developer Parties acknowledge and agree that the City's obligation to pay any City Funds to Montclare Corp. is contingent upon the fulfillment of the conditions set forth in parts (i) and (ii) above, as well as the prior issuance of the Certificate and the Developer Parties' satisfaction of all other applicable terms and conditions of this Agreement, including, without limitation, compliance with the covenants in Section 8.05.

3 Requisition Form. After the date of completion of fifty percent of the Project and when the Project is near completion (or such other date as the parties may agree to) thereafter, the Developer Parties shall provide DPD with a Requisition Form, along with the documentation described therein. Requisition for reimbursement of TIF-Funded Improvements shall be made not more than one time per year (or as otherwise permitted by DPD). Upon DPD's request, the Developer Parties shall meet with DPD to discuss any Requisition Form(s).

4 Prior Expenditures. Exhibit G hereto sets forth the prior expenditures approved by DPD as of the date hereof.

5 City Fee. As allowable per state law, these are costs incurred by the City related to the implementation and administration of TIF redevelopment plans, including but not limited to staff costs. Annually, the City may allocate an amount not to exceed ten percent (10%) of the Incremental Taxes for payment of costs incurred by the City for the administration and monitoring of the Redevelopment Area, including the Project. Such fee shall be in addition to and shall not be deducted from or considered a part of the City Funds, and the City shall have the right to receive such funds prior to any payment of City Funds hereunder.

6 Cost Overruns. The Developer Parties shall be solely responsible for any Project costs in excess of those set forth in the Project Budget and shall hold the City harmless from any and all such costs.

7 Conditional Grant. The City Funds being provided hereunder are being granted on a conditional basis, subject to the Developer Parties' compliance with the provisions of this Agreement. The payment of City Funds is subject to being terminated and/or reimbursed as provided in Section 12.02.

4.08 Reduction in TIF Funds. Intentionally Omitted.

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4.09 TIF Recapture. Intentionally Omitted.

4.10 Sale of Property.

(a) The City agrees to sell the Property to the Developer and the Developer agrees to purchase the Property for One Dollar (\$1.00) (the "Purchase Price"). Pursuant to the Developer's request, the City will convey the Development Parcel to the Developer and the Alley Parcel to Montclare Corp. The Purchase Price that shall be paid in cash in full by Developer at the Property Closing. Developer Parties acknowledge and agree that the Property has a fair market value of Two Hundred Twenty Thousand Dollars and No/100 (\$220,000). The City will convey the relevant portions of the Property to Developer Parties by separate quit claim deeds (each, a "Deed"), subject to the terms of this Agreement and without limiting the quitclaim nature of the Deed, subject to the following:

- (i) the Ogden/Pulaski Redevelopment Plan for the Ogden/Pulaski Redevelopment Area;
- (ii) the standard exceptions in an ALTA title insurance policy;
- iii) all general real estate taxes and any special assessments or other taxes;
- iv) all easements, encroachments, covenants and restrictions of record and not shown of record;
- v) such other title defects as may exist, and
- (vi) any and all exceptions caused by the acts of the Developer Parties or its agents.

Developer Parties acknowledges that it has obtained title insurance commitments for the Property, showing the City in title to the Property. If necessary to clear title of exceptions for general real estate tax liens attributable to taxes due and payable prior to the Property Closing Date, the City shall submit to the County a tax abatement letter and/or file a vacation of tax sale proceeding in the Circuit Court of Cook County, seeking the exemption or waiver of such pre-closing tax liabilities, but shall owe no further duties with respect to any such taxes. The City shall use reasonable efforts to obtain the waiver or release of any delinquent real estate taxes or tax liens on the Property prior to the Property Closing Date, to the extent such taxes or tax liens can be waived or released through submission of an abatement letter to the Cook County Treasurer, a motion to vacate a tax sale or a petition for exemption. The City shall have no duty to clear any title exceptions or clear any encumbrances on title provided, however, the City shall file all necessary releases of record to release and remove those certain Receiver's liens arising out of case numbers 04M1402846, 04M1402847 and 04M1402848 in favor of City and recorded October 25, 2005 as document numbers 0529819073, 0529819074 and 0529819075 each in the amount of \$311,515.85. If the Developer Parties are unsatisfied with the condition of title, the Developer Parties' sole right shall be to do one of the following: (a) accept title to the Property subject to any and all title exceptions, which shall then become Permitted Liens; or (b) terminate this Agreement by delivery of written notice to the City at least seven (7) days prior to the Property Closing Date, in which event this Agreement shall be null and void and, except as otherwise specifically provided herein, no party shall have any further right, duty or obligation hereunder. If the Developer Parties elect not to

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terminate this Agreement as aforesaid, the Developer Parties agree to accept title subject to the exceptions.

The Developer Parties shall be responsible for all taxes accruing after the Property Closing Date, (and any taxes accruing prior to the Property Closing Date that the City is unable to clear by taking the actions described above), provided that the obligation of Montclare Corp. with respect to the Alley Parcel shall terminate upon the dedication of the Alley Parcel to the City, but such termination shall not apply to any taxes that have accrued prior to the dedication of the Alley Parcel. The Developer Parties shall be solely responsible for and shall pay all costs associated with updating title insurance commitments (including all search, continuation and later-date fees), and obtaining a Title Policy.

b) The Property Closing. The Property Closing Date shall take place on such date and at such place as the parties may mutually agree to in writing, but in no event earlier than the RDA Closing Date and subject to the satisfaction of all conditions precedent to RDA Closing set for in Section 5.

c) Recordation of Quitclaim Deed. Developer Parties shall promptly record the Deed for the Property in the Recorder's Office of Cook County. Developer Parties shall pay all costs for so recording the quitclaim deed.

d) Escrow. The Property Closing shall convey the Property through an escrow with Chicago Title Insurance Company and the Developer Parties shall pay all escrow fees.

e) "AS IS" SALE. THE DEVELOPER PARTIES ACKNOWLEDGE THAT THEY HAVE HAD ADEQUATE OPPORTUNITY TO INSPECT AND EVALUATE THE STRUCTURAL, PHYSICAL AND ENVIRONMENTAL CONDITION AND RISKS OF THE PROPERTY AND ACCEPTS THE RISK THAT ANY INSPECTION MAY NOT DISCLOSE ALL MATERIAL MATTERS AFFECTING THE PROPERTY. DEVELOPER AGREES TO ACCEPT THE 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 PROPERTY. THE DEVELOPER PARTIES ACKNOWLEDGE THAT THEY ARE RELYING SOLELY UPON THEIR 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 PARTIES AGREE THAT IT IS THEIR SOLE RESPONSIBILITY AND OBLIGATION TO PERFORM ANY ENVIRONMENTAL REMEDIATION WORK AND TAKE SUCH OTHER ACTION AS IS NECESSARY TO PUT THE PROPERTY IN A CONDITION WHICH IS SUITABLE FOR ITS INTENDED USE.

f) Release and Indemnification. Developer and Montclare Corp. each, on behalf of itself and anyone claiming by, through or under it, hereby releases, relinquishes and forever discharges the City, its officers, agents and employees, from and against any and all Losses which the Developer Parties or any of them ever had, now has, 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, for the term that the City owned the Property (a) any environmental contamination, pollution or hazards

associated with the 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 Materials, or threatened release, emission or discharge of Hazardous Materials; (b) the structural, physical or environmental condition of the Property, including, without limitation, the presence or

suspected presence of Hazardous Materials in, on, under or about the Property or the migration of Hazardous Materials 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 Property or any improvements, facilities or operations located or formerly located thereon (collectively, "Released Claims"). Furthermore, the Developer Parties shall defend, indemnify, and hold the City 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.

g) Release Runs with the Land. The covenant of release in Section 4.10(f) shall run with the Property, and shall be binding upon all successors and assigns of Developer Parties with respect to the 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 Property under or through Developer Parties following the date of the Deed. Developer Parties 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 Property to the Developer Parties. It is expressly agreed and understood by and between Developer Parties and the City that, should any future obligation of the Developer Parties, arise or be alleged to arise in connection with any environmental, soil or other condition of the Property, neither the Developer Parties nor any of its current or former officers, directors, employees, agents, predecessors, successors or assigns, will assert that those obligations must be satisfied in whole or in part by the City because Section 4.09(f) contains a full, complete and final release of all such claims.

h) Survival. The foregoing Sections 4.10(f) and (q) shall survive the Property Closing or any termination of this Agreement (regardless of the reason for such termination).

SECTION 5. CONDITIONS PRECEDENT

The Developer Parties must satisfy the following conditions before the City will execute and deliver this Agreement, unless such conditions are waived in writing by the City:

1 Project Budget. DPD must have approved the Project Budget.

2 Other Governmental Approvals. The Developer Parties must have secured all other necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation and has submitted evidence thereof to DPD. Such approvals shall include, without limitation, all building permits necessary for the Project; provided, however, that if the City agrees to close before construction commences, such building permits shall be secured prior to commencement of any such construction work. Developer acknowledges and agrees that the City

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will not close unless and until HUD amends those covenants as set forth in its Special Warranty Deed dated January 17, 2006, and recorded on January 17, 2006 with the Office of the Recorder of Deeds of Cook County, Illinois, as document no. 0602732078, as necessary to avoid any conflict with the terms of this Agreement, provided that the City may close in the event the Developer agrees to take subject to such matters.

3 Financing. The Developer Parties must have furnished proof reasonably acceptable to the City

that the Developer Parties have Equity and/or Lender Financing to complete the Project. Any liens against the Property in existence at the Closing Date except for the LIHTC Regulatory Agreement and those associated with the HUD Loan must have been subordinated to the covenants running with the land contained in this Agreement pursuant to a Subordination Agreement in the form of Exhibit J-1 to be recorded, at the expense of the Developer Parties, with the Recorder's Office of Cook County. However, the City agrees to subordinate the City's interest arising pursuant to this Agreement to the lien of the HUD Loan in the form of Exhibit J-2. to be recorded at the expense of the Developer Parties.

4 Title Policy. The Developer Parties must have furnished the City with a copy of Title Policies for the Property, certified by the Title Company, showing the Developer as the named insured for the Development Parcel and Montclare Corp. as the named insured for the Alley Parcel, along with copies of all Schedule B title exception documents. The Title Policies must be dated as of the Closing Date and contain only those title exceptions listed on Exhibit F hereto and evidence the recording of this Agreement. The Title Policies must contain such endorsements as may be required by Corporation Counsel, including but not limited to an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.0), contiguity, location, access and survey. The Developer Parties have provided to DPD, on or prior to the Closing Date, certified copies of all easements and encumbrances of record with respect to the Property not addressed, to DPD's satisfaction, by the Title Policy and any endorsements thereto.

5 Evidence of Clean Title. The Developer Parties, at their own expense, must have provided the City with the searches under the following names, Montclare Senior Residences SLF of Lawndale, LLC, Lawndale SLF, LLC and Montclare Corp. as follows:

Secretary of State Secretary of State

Cook County Recorder Cook County Recorder Cook County Recorder Cook County Recorder Cook County Recorder U.S. District Court

Clerk of Circuit Court, Cook County

UCC search Federal tax search UCC search Fixtures search Federal tax search State tax search

Memoranda of judgments search Pending suits and judgments Pending suits and judgments

showing no liens against such parties, the Property, or any fixtures now or hereafter affixed thereto, except for the Permitted Liens.

5.06 Surveys. The Developer Parties must have furnished the City with three (3) copies of the Survey.

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7 Insurance. The Developer Parties, at their own expense, must have insured the Property in accordance with Exhibit L hereto, and delivered to DPD actual policies or Accord Form 27 certificates evidencing the required coverages.

8 Opinion of the Developer Parties' Counsel. On the Closing Date, the Developer Parties must have furnished the City with an opinion of counsel, substantially in the form attached hereto as Exhibit K, with such changes as may be acceptable to Corporation Counsel.

9 Evidence of Prior Expenditures. The Developer Parties must have provided evidence satisfactory to DPD in its sole discretion of the Prior Expenditures.

5.10 Financial Statements. The Developer Parties must have provided DPD with such financial statements as DPD may reasonably require.

11 Documentation. The Developer Parties must have provided documentation to DPD satisfactory in form and substance to DPD, with respect to the current number of employees per Section 8.05.

12 Environmental. The Developer Parties must have provided DPD with copies of any existing phase I environmental audits completed with respect to the Property and a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits.

13 Corporate Documents; Economic Disclosure Statement. The Developer Parties must have provided a copy of its Articles of Organization or Incorporation containing the original certification of the Secretary of State of its state of organization; certificates of good standing from the Secretary of State of its state of incorporation and the State of Illinois; a secretary's certificate in such form and substance as the Corporation Counsel may require; operating agreement, by-laws and such other corporate documentation as the City has requested. The Developer Parties must also have provided the City with an Economic Disclosure Statement dated as of the Closing Date.

14 Litigation. The Developer Parties must have provided to Corporation Counsel and DPD, a description of all pending or threatened litigation or administrative proceedings involving the Developer Parties and the Property.

SECTION 6. AGREEMENTS WITH CONTRACTORS

In connection with the Project, the Developer Parties shall comply with, and shall cause the general contractor and all subcontractors to comply with, the construction requirements set forth in Exhibit D that are applicable to such parties. Such requirements are specific City requirements that must be satisfied and include, without limitation, wage, MBE/WBE utilization and City resident hiring requirements.

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SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION

1 Certificate of Completion of Construction or Rehabilitation. Upon completion of the Project in accordance with the terms of this Agreement and upon the Developer's written request, DPD shall either issue to the Developer Parties a Certificate in recordable form certifying that the Developer Parties has fulfilled their obligation to complete the Project in accordance with the terms of this Agreement or a written statement detailing the measures which must be taken in order to obtain the Certificate. DPD may require a single inspection by an inspecting architect hired at the Developer Parties' expense to confirm the completion of the Project. DPD shall respond to the Developer Parties' written request for a Certificate within forty-five (45) days by issuing either a Certificate or a written statement detailing the ways in which the Project does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by Developer Parties in order to obtain the Certificate. Developer Parties may resubmit a written request for a Certificate upon completion of such measures. Completion of the Project shall include the following:

-All interior space plus common areas have been built out; all mechanicals have been installed and

are operating; all green improvements have been completed, including certification by the U.S. Environmental Protection Agency that the office space is energy star certified;

- the senior supportive living facility constructed on the Development Parcel has been issued a certificate of occupancy from the City's Department of Buildings or other evidence acceptable to DPD that the Developer has complied with all building permit requirements for the Project; and

- written confirmation to DPD that the Developer is in complete compliance with requirements for Prevailing Wage, Employment Opportunity, City Residency Employment and MBEA/VBE Program; together with the other requirements referred to as the "City Human Rights Requirements" from the City Monitoring and Compliance Unit.

-certification by the City's Department of Transportation ("CDOT") that alley improvements have been completed according to CDOT requirements and all City approved specifications and plans.

2 Effect of Issuance of Certificate; Continuing Obligations. The Certificate relates only to the performance of the work associated with the Project improvements. After the issuance of a Certificate, however, all executory terms and conditions of this Agreement and all representations and covenants contained herein unrelated to such work will remain in effect throughout the Term of the Agreement, or such shorter period as may be explicitly provided for herein, as to the parties described in the following paragraph, and the issuance of the Certificate shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms.

Those covenants specifically described at Sections 8.01 (I) 8.02, 8.05 and 8.14 as covenants that run with the land will bind any transferee of the Development Parcel (including an assignee as described in the following sentence) throughout the Term of the Agreement or such shorter period as may be explicitly provided for therein. The other executory terms of this Agreement shall be binding only upon the Developer Parties or a permitted assignee under Section 15.15 of this Agreement.

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3 Failure to Complete. If the Developer Parties fail to timely complete the Project in accordance with the terms of this Agreement, no Certificate will ever be issued, and the City will have the right to terminate this Agreement. If this occurs, no City Funds will ever be paid to the Montclare Corp. In addition, if the Project's TIF-Funded Improvements include any public improvements, the City will have the right (but not the obligation) to complete such public improvements and the Developer Parties must immediately reimburse the City for all reasonable costs and expenses incurred in completing such public improvements.

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

SECTION 8. COVENANTS/REPRESENTATIONS/WARRANTIES OF THE DEVELOPER PARTIES.

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

- (a) the Developer is an Illinois limited liability company, duly organized, and in good standing in the State of Illinois and Montclare Corp. is an Illinois corporation, duly organized, and in good standing in the State of Illinois;

b) the Developer Parties (including each of them, respectively) have the right, power and authority to enter into, execute, deliver and perform this Agreement;

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

d) the Developer Parties will continue to own good, indefeasible and merchantable title to the Property (and all improvements thereon), free and clear of all liens except for the Permitted Liens and such other matters as DPD may consent to in writing;

e) the Developer Parties (including each of them, respectively) are now and for the Term of the Agreement shall remain solvent and able to pay its debts as they mature;

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

g) the Developer Parties (including each of them, respectively) has and shall maintain all government permits, certificates and consents necessary to conduct its business and to

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construct, complete and operate the Project;

(h) the Developer Parties are not in default with respect to any agreement or instrument related to the borrowing of money to which the Developer Parties (or either of them) is bound or for which the Property serves as collateral;

(i) any financial statements provided to the City are and will be, at the time of submittal, true, complete and correct in all material respects and accurately present the assets, liabilities, results of operations and financial condition of the Developer Parties, and there has been no material adverse change in the assets, liabilities, results of operations or financial condition of the Developer Parties since the date of the Developer Parties' most recent respective Financial Statements;

(j) the Developer Parties (including each of them, respectively) shall not, directly or indirectly do any of the following without the prior written consent of DPD, which consent shall be in DPD's sole discretion: (1) be a party to any merger, liquidation or consolidation; (2) sell (including, without limitation, any sale and leaseback), transfer, convey, lease (other than expressly permitted herein) or otherwise dispose of all or substantially all of its assets or any portion of the Property; or (3) enter into any transaction that would cause a material and detrimental change to the Developer Parties' financial condition;

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

(l) the Property shall not be used for any Prohibited Use;

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

(n) Developer (including each of them, respectively) agrees that Developer, any person or entity who directly or indirectly has an ownership or beneficial interest in Developer of more than 7.5 percent ("Owners"), spouses and domestic partners of such Owners, Developer's contractors (i.e., any person or entity in direct contractual privity with Developer regarding the subject matter of this Agreement) ("Contractors"), any person or entity who directly or indirectly has an ownership or

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beneficial interest in any Contractor of more than 7.5 percent ("Sub-owners") and spouses and domestic partners of such Sub-owners (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 during (i) the bid or other solicitation process for this Agreement or Other Contract (as defined below), including while this Agreement or any Other Contract is executory, (ii) the term of this Agreement or any Other Contract between Developer and the City, and/or (iii) any period while an extension of this Agreement or any Other Contract with the City is being sought or negotiated.

Developer represents and warrants that since the date of public advertisement of the specification, request for qualifications, request for proposals or request for information (or any combination of those requests) or, if not competitively procured, from 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.

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.

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.2011-4.

Developer agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision 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. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Agreement, under any Other Contract, at law and in equity. This provision

amends any Other Contract and supersedes any inconsistent provision contained therein.

If Developer violates this provision or Mayoral Executive Order No. 2011-4 prior to the closing of this Agreement, the City may elect to decline to close the transaction contemplated by this Agreement.

For purposes of this provision:

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

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

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

Individuals are "Domestic Partners" if they satisfy the following criteria:

- A) they are each other's sole domestic partner, responsible for each other's common welfare; and
- B) neither party is married, as defined under Illinois law; and
- C) the partners are not related by blood closer than would bar marriage in the State of Illinois; and
- D) 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
- E) 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. a 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.

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

2 **Covenant to Redevelop.** The Developer Parties shall redevelop the Property in accordance with this Agreement and all Exhibits attached hereto, the Redevelopment Plan, the TIF Ordinances, the Project Budget and all amendments thereto, and all applicable federal, state and local laws, ordinances, rules, regulations, executive orders and codes. The covenants set forth in this Section shall run with the land but shall be deemed satisfied and shall terminate when the City issues its Certificate for recording in the Recorder's Office of Cook County.

3 **Use of City Funds.** City Funds shall be used by the Developer Parties solely to reimburse the Developer Parties for its payment for the TIF-Funded Improvements.

4 **Bonds.** The Developer Parties shall, at the request of the City, agree to any reasonable

amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole discretion) any bonds in connection with the Area; provided, however, that any such amendments shall not have a material adverse effect on the Developer Parties or the Project. The Developer Parties shall, at the Developer Parties' expense, cooperate and provide reasonable assistance in connection with the marketing of any such bonds, including but not limited to providing written descriptions of the Project, making representations, providing information regarding its financial condition and assisting the City in preparing an offering statement with respect thereto. If any such bonds are issued, the City may use the proceeds thereof to reimburse the Developer Parties for any amounts remaining due under this Agreement.

5 Job/Occupancy Requirement and Retention; Covenant to Remain in the City. The Developer covenants that, as of the date of this Agreement, and as a condition to the issuance of the Certificate, the Developer shall develop and operate the Development Parcel primarily as a

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senior supportive living facility or such other uses as the City may from time to time permit. The Developer further covenants that at all time thereafter through the tenth anniversary date of the issuance of the Certificate pursuant to Section 7.01:

- a) Developer will notify the City, in writing, in the event Developer intends to change the use of the Development Parcel in a manner that will require a change in the type or class of license necessary to lawfully use the Development Parcel; and
- b) it will maintain its operations within the City of Chicago and operate at the Development Parcel for the same use and at substantially the same capacity as described in the Developer's TIF application and/or this Agreement, specifically maintaining the Development Parcel as senior supportive living facility, unless the covenant in clause (a) is satisfied and the Commissioner of DPD, in the Commissioner's sole discretion, consents to a change in use; and

During the Term of the Agreement, the Developer Parties shall, as part of its Annual Compliance Report, provide DPD with a notarized affidavit certifying to its compliance with this Section 8.05 for the 12 month period covered by the Annual Compliance Report. The covenants set forth in this Section 8.05 shall run with the land and be binding upon any permitted transferee, if any, for the period set forth in the first paragraph of this Section 8.05. Any year(s) in which Developer Parties is not in compliance with requirements set forth in this Section 8.05 will not count toward the ten year enforceability period described above.

8.06 Arms-Length Transactions. Unless disclosed in the approved Project Budget or unless DPD has given its prior written consent with respect thereto, no Affiliate of the Developer Parties may receive any portion of City Funds, directly or indirectly, in payment for work done, services provided or materials supplied in connection with any TIF-Funded Improvement. The Developer Parties shall provide information with respect to any entity to receive City Funds directly or indirectly (whether through payment to the Affiliate by the Developer Parties and reimbursement to the Developer Parties for such costs using City Funds, or otherwise), upon DPD's request, prior to any such disbursement.

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

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

9 Financial Statements. The Developer Parties shall provide DPD current financial statements for the last three years prior to Closing, and at DPD's request, shall provide such interim statements as DPD may require.

8.10 Insurance. The Developer Parties shall provide and maintain during the Term of the

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Agreement, and cause other applicable parties to provide and maintain, the insurance coverages specified in Exhibit L

11 Non-Governmental Charges. Except for the Permitted Liens, and subject to the next sentence, the Developer Parties agrees to pay or cause to be paid when due any Non-Governmental Charges. The Developer Parties has the right, before any delinquency occurs, to contest any Non-Governmental Charge by appropriate legal proceedings properly and diligently prosecuted, so long as such proceedings serve to prevent any sale or forfeiture of the Property.

12 Compliance with Laws. The Property and the Project are and shall be operated in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes.

13 Recording and Filing. The Developer Parties shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed against the Property in the Recorder's Office of Cook County.

14 Real Estate Provisions; Governmental Charges. Subject to the next paragraph, the Developer Parties will pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon the Developer Parties, the Property or the Project. "Governmental Charge" shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances, including, but not limited to, general real estate taxes.

The Developer Parties has the right, before any delinquency occurs, to contest any Governmental Charge by appropriate legal proceedings properly and diligently prosecuted, so long as such proceedings serve to prevent any sale or forfeiture of the Property.

Furthermore, upon the dedication of the Alley Parcel to the City in accordance with Section 8.15. below, the Developer Parties shall be relieved of any obligation to pay Governmental Charges upon the Alley Parcel.

15 Dedication of Alley parcel. Upon completion of construction of the Alley Parcel, Montclare Corp. shall dedicate to the City and the City agrees to accept a dedication of the Alley Parcel to the City as a public alley subject to prior City Council passage and approval of a dedication ordinance for the Alley Parcel and the recording of a dedication plat for the Alley Parcel that has been approved by the City's Superintendent of Maps.

16 Survival of Covenants. All warranties, representations, covenants and agreements of the Developer Parties

contained in this Section 8 and elsewhere in this Agreement shall be true, accurate and complete at the time of the Developer Parties' execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and (except as provided in Section 7 hereof upon the issuance of a Certificate) shall be in effect throughout the Term of the Agreement, or such shorter period as may be explicitly provided herein.

17 Annual Compliance Report. Beginning with the calendar year in which the Certificate is issued and continuing throughout the Term of the Agreement, the Developer shall submit to DPD the Annual Compliance Report by March 1st of the year following the end of the calendar year to which the Annual Compliance Report relates. For example, if the Certificate is issued in 2017, then

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the first Annual Compliance Report will be due no later than March 1, 2018.

18 Job Readiness Program. Not included.

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

8.20. FOIA and Local Records Act Compliance.

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

b) Exempt Information. Documents that the Developer submits to the City under Section 8.17. (Annual Compliance Report) or otherwise during the Term of the Agreement that contain trade secrets and commercial or financial information may be exempt if disclosure would result in competitive harm. However, for documents submitted by the Developer Parties to be treated as a trade secret or information that would cause competitive harm, FOIA requires that Developer Parties mark any such documents as "proprietary, privileged or confidential." If the Developer Parties marks a document as "proprietary, privileged and confidential", then DPD will evaluate whether such document may be withheld under the FOIA. DPD, in its discretion, will determine whether a document will be exempted from disclosure, and that determination is subject to review by the Illinois Attorney General's Office and/or the courts.

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

8.21 Shakman Accord

(a) The Developer Parties shall perform under this Agreement as an independent contractor to the City and not as a representative, employee, agent or partner of the City.

(b) The City is subject to the June 24, 2011 "City of Chicago Hiring Plan" (the '2011 City Hiring Plan') entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United State District Court for the Northern District of Illinois). Among other things, the 2011

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City Hiring Plan prohibits the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

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

d) Developer Parties will not condition, base, or knowingly prejudice or affect any term or aspect of 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.

e) In the event of any communication to Developer Parties by a City employee or City official in violation of paragraph (c) above, or advocating a violation of paragraph (d) above, Developer Parties 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 Department. Developer Parties will also cooperate with any inquiries by IGO Hiring Oversight related to this Agreement.

SECTION 9. ENVIRONMENTAL MATTERS

The Developer hereby represents and warrants to the City that it has conducted environmental studies sufficient to conclude that the Project may be constructed, completed and operated in accordance with the requirements of all Environmental Laws and this Agreement. The Developer agrees to indemnify, defend and hold the City harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City and relating to the Project or the Property.

SECTION 10. INDEMNIFICATION

Each of the Developer Parties agrees to severally, but not jointly, indemnify, pay, defend and hold the City, and its elected and appointed officials, employees, agents and affiliates (individually an "Indemnatee," and collectively the "Indemnitees") harmless from and against, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (and including without limitation, the reasonable fees and disbursements of counsel for such Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnities shall be designated a party thereto), that may be imposed on, suffered, incurred by or asserted against the Indemnitees in any manner directly or indirectly relating or arising out of this Agreement or the Project. The provisions of the undertakings and indemnification set out in this Section 10 shall survive the termination of this Agreement.

SECTION 11. MAINTAINING RECORDS / RIGHT TO INSPECT

The Developer Parties shall (a) comply with the requirements of Paragraph H of Exhibit D during the Term of the Agreement and cause the other applicable parties to comply with such requirements, and (b) upon three (3) business days' notice, permit any authorized representative of the City to have access to all portions of the Project and the Property during normal business hours to confirm the Developer Parties' compliance with its obligations under this Agreement.

SECTION 12. DEFAULT AND REMEDIES

12.01 Events of Default. The occurrence of any one or more of the following events, subject to the provisions of Section 12.03, shall constitute an "Event of Default" by a Developer Party hereunder:

- (a) the failure of a Developer Party to comply with any covenant or obligation, or the breach by such Developer Party of any representation or warranty, under this Agreement or any related agreement;
- (b) the commencement of any bankruptcy, insolvency, liquidation or reorganization proceedings under any applicable state or federal law, or the commencement of any analogous statutory or non-statutory proceedings involving a Developer Party; 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;
- (c) the appointment of a receiver or trustee for a Developer Party, for any substantial part of a Developer Party's assets or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of a Developer Party; 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;

(d) the entry of any judgment or order against a Developer Party or the Property which

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remains unsatisfied or undischarged and in effect for sixty (60) days after such entry without a stay of enforcement or execution;

e) the dissolution of a Developer Party or the death of any natural person who owns a 50% or more ownership interest in the Developer Party, unless in the case of death, the Developer establishes to DPD's satisfaction that such death shall not impair the Developer Party's ability to perform its executory obligations under this Agreement;

f) the institution in any court of a criminal proceeding (other than a misdemeanor) against a Developer Party or any natural person who owns 5% or more ownership interest in a Developer Party, which is not dismissed within thirty (30) days, or the indictment of a Developer Party or any natural person who owns such a material interest in a Developer Party, for any crime (other than a misdemeanor).

(g) failure to timely submit the Annual Compliance Report to the City as required by this Agreement, the failure of which will constitute an event of default without notice or opportunity to cure.

2 Remedies. Upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements, and may suspend disbursement of City Funds. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy. However, the City shall not be entitled to recover any City Funds previously paid to the Developer Parties unless the Event of Default involves a Reimbursement Event.

3 Curative Period. In the event a Developer Party fails to perform any covenant or obligation or breaches any representation or warranty which such Developer Party is required to perform under this Agreement, an Event of Default shall not be deemed to have occurred unless the Developer Party has failed to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those nonmonetary defaults which are not capable of being cured within such thirty (30) day period, such Developer Party shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured. No such cure period, however, shall apply to Events of Default described in Section 12(b), (c), (d), (e) or EQ, which defaults shall have the cure periods described therein, if any. In addition, no cure period shall apply to default arising from a breach of the jobs and operations covenants in Section 8.05 and the Annual Compliance Report covenant in Section 8.17 and such breaches shall be an immediate Event of Default. The City may, in its sole discretion, accept a cure of any Event of Default made or tendered by any member of the Developer or by any Lender providing Lender Financing and in such instance such cure shall be deemed to be a cure by the Developer Parties.

SECTION 13. MORTGAGING OF THE PROJECT

All mortgages or deeds of trust in place as of the date hereof with respect to the Property or any portion thereof are listed on Exhibit F hereto. No mortgagee shall have the right to succeed to the Developer

Parties rights under this Agreement unless it complies with the first sentence of Section 15.15 hereof.

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SECTION 14. NOTICE

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

If to the City: City of Chicago
Department of Planning and Development 121 North LaSalle
Street, Room 1000 Chicago, IL 60602 Attention: Commissioner

With Copies To: City of Chicago
Department of Law
Finance and Economic Development Division 121 North
LaSalle Street, Room 600 Chicago, IL 60602

If to a Developer Party: Montclare Senior Residences SLF of Lawndale, LLC
c/o MR Properties, LLC Des Plaines, Illinois
60016 Attention: Philip I. Mappa

With Copies To: Applegate &Thorne-Thomsen
626 W. Jackson Blvd., Suite 400 Chicago,
Illinois 60661 Attn: Steven D. Friedland

and to: Great Lakes Capital Fund for Housing Limited Partnership 29
c/o GLCFH-29, its General Partner 1118 South
Washington Lansing, MI 48910

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

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SECTION 15. MISCELLANEOUS

1 Amendment. This Agreement and the Exhibits attached hereto may not be amended or modified without the prior written consent of the parties hereto; provided, however, that the City, in its sole discretion, may amend, modify or supplement Exhibit A hereto without the consent of any party hereto, and DPD may grant consents as explicitly provided for under certain sections of this Agreement. It is agreed that no material amendment or change to this Agreement shall be made or be effective unless ratified or authorized by an ordinance duly adopted by the City Council. The term "material" for the purpose of this Section 15.01 shall be defined as any deviation from the terms of the Agreement which operates to materially reduce the scope of the Project, increases the square footage allocated to office space to an amount greater than fifty percent (50%), materially changes the Project or business operations of the Developer Parties at the Property, or increases the City Funds payable to the Developer Parties.

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

3 Limitation of Liability. No member, official or employee of the City shall be personally liable to the Developer Parties 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 Parties from the City or any successor in interest or on any obligation under the terms of this Agreement.

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

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

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

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

15.08 Headings. The paragraph and section headings contained herein are for

convenience only and are not intended to limit, vary, define or expand the content thereof.

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

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

11 Conflict. In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances, and any bond ordinances relating to the Area, if any, such ordinance(s) shall prevail and control.

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

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

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

15 Assignment. The Developer Parties may not sell, assign or otherwise transfer their interest in this Agreement in whole or in part without the written consent of the City, which consent shall be in the City's sole discretion and which, if granted, may be conditioned upon, among other things, the assignee's assumption of all of the Developer Parties' obligations under this Agreement. The foregoing limitation shall not prevent the Developer Parties from collaterally assigning to a lender that is also providing financing for the Project the Developer Parties' respective interests in this Agreement as security for such lender financing and Love Funding Corporation and HUD shall not require the City's consent to assume the Developer Parties interest in this Agreement. The Developer Parties consent to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

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

17 Force Majeure. Neither the City nor the Developer Parties nor any successor in interest to either of them shall be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and

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not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder. The individual or entity relying on this section with respect to any such delay shall, upon the occurrence of the event causing such delay, immediately give

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

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

19 Business Economic Support Act. Pursuant to the Business Economic Support Act (30 ILCS 760/1 et seq.), if the Developer Parties are required to provide notice under the WARN Act, the Developer Parties shall, in addition to the notice required under the WARN Act, provide at the same time a copy of the WARN Act notice to the Governor of the State, the Speaker and Minority Leader of the House of Representatives of the State, the President and minority Leader of the Senate of State, and the Mayor of each municipality where the Developer Parties has locations in the State. Failure by the Developer Parties to provide such notice as described above may result in the termination of all or a part of the payment or reimbursement obligations of the City set forth herein.

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

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

22 Business Relationships. The Developer Parties acknowledges (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (B) that Developer Parties has read such provision and understands that pursuant to such Section 2-156-030 (b), it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected City official or employee has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving any person with whom the elected City official or employee has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship, and (C) that a violation of Section 2-156-030 (b) by an elected official, or any person acting at the direction of such official, with respect to any transaction contemplated by this Agreement shall be grounds for termination of this Agreement and the transactions contemplated hereby. The Developer Parties hereby represents and warrants that, to the best of its knowledge after due inquiry, no violation of Section 2-156-030 (b) has occurred with

28

respect to this Agreement or the transactions contemplated hereby.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK] [SIGNATURE BLOCKS
APPEAR ON THE FOLLOWING PAGE]

29

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

MONTCLARE SENIOR RESIDENCES SLF OF LAWNDAL, LLC, an
Illinois limited liability company

By: Lawndale SLF, LLC, its Manager an Illinois

Limited liability company

By: Montclare Lawndale SLF Corp., its Managing Member An Illinois corporation

By:
Philip I. Mappa, its President

MONTCLARE LAWDALE SLF CORP.
an Illinois corporation

By:
Philip I. Mappa, its President

CITY OF CHICAGO, acting by and through its Department of Planning and Development

Andrew J. Mooney Commissioner

30

STATE OF ILLINOIS)) ss
COUNTY OF COOK)

I, _____, a notary public in and for the said County, in the State aforesaid,
DO HEREBY CERTIFY that Philip I. Mappa, personally known to me to be the President of Montclare Lawndale SLF Corp, an Illinois corporation ("Montclare Corp"), the Managing Member of Lawndale SLF, LLC, an Illinois limited liability company, the Manager of Montclare Senior Residences SLF of Lawndale, LLC, an Illinois Limited liability company the "Developer"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged

that he signed, sealed, and delivered said instrument, pursuant to the authority given to him by the members of the company, as his free and voluntary act and as the free and voluntary act of Montclare Corp. and the Developer, for the uses and purposes therein set forth.

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

Notary Public

My Commission Expires

(SEAL
STATE OF ILLINOIS)
COUNTY OF COOK)

) ss

I, , a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Andrew J. Mooney, personally known to me to be the Commissioner of the Department of Planning and Development of the City of Chicago (the "City"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed, and delivered said instrument pursuant to the authority given to him by the City, as his free and voluntary act and as the free and voluntary act of the City, for the uses and purposes therein set forth.

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

Notary Public

My Commission Expires.

EXHIBIT A-1

Legal Description of the Ogden/Pulaski Redevelopment Area [To Be Attached at Closing]

EXHIBIT A-2

Legal Description of the Roosevelt/Cicero Redevelopment Area [To Be Attached at Closing]

EXHIBIT B

Description of the Project

The Project includes construction of a five story masonry building which will house a senior supportive facility consisting of 120 dwelling units with 101 single occupancy units and 19 double occupancy units with landscaping, common areas and 40 parking spaces along with certain new alley improvements.

EXHIBIT C-1

**Legal Description of Development Parcel (SUBJECT TO FINAL
SURVEY AND TITLE COMMITMENT)**

PARCEL 1:

LOTS 13 TO 28 INCLUSIVE IN THE RESUBDIVISION OF LOTS 6 TO 12 INCLUSIVE IN W. A. JAMES SUBDIVISION OF LOT 4 (EXCEPT THE WEST 243.54 FEET) IN EXECUTOR'S SUBDIVISION OF LOT 3 IN THE PARTITION OF THE SOUTH EAST 1/4 OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 2:

LOTS 1 TO 4 INCLUSIVE AND LOTS 17 TO 20 IN BLOCK 2 IN S. HAIR'S SUBDIVISION OF THE WEST 243.54 FEET OF LOT 4 IN EXECUTOR'S SUBDIVISION OF LOT 3 IN PARTITION OF THE SOUTH EAST 1/4 OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 3:

THE SOUTH HALF OF THAT PART OF WEST 18TH PLACE AND THE PUBLIC ALLEYS LYING ADJACENT TO SAID LOTS, VACATED BY ORDINANCE PASSED JUNE 2, 1967 AND RECORDED AUGUST 30, 1967 AS DOCUMENT NO. 20246302, ALL IN COOK COUNTY, ILLINOIS.

EXCLUDING AND EXCEPTING THEREFROM THE FOLLOWING:

THE EAST 18 FEET ALONG WITH THE NORTH 40 FEET OF THE WEST 40 FEET OF THE EAST 58 FEET OF A TRACT OF LAND DESCRIBED AS FOLLOWS:

LOTS 13 TO 28 INCLUSIVE IN THE RESUBDIVISION OF LOTS 6 TO 12 INCLUSIVE IN W. A. JAMES SUBDIVISION OF LOT 4 (EXCEPT THE WEST 243.54 FEET) IN EXECUTOR'S SUBDIVISION OF LOT 3 IN THE PARTITION OF THE SOUTH EAST 1/4 OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, LONG WITH THE SOUTH 1/2 OF THAT PART OF WEST 18TH PLACE AND THE PUBLIC ALLEY LYING ADJACENT TO SAID LOTS, VACATED BY ORDINANCE PASSED JUNE 2, 1967 AND RECORDED AUGUST 30, 1967 AS DOCUMENT NUMBER 20246302, IN COOK COUNTY, ILLINOIS.

Parcel Number: 16-22-409-036-0000 (part of) 16-22-409-037-0000

Real Estate Address: 4339-4347 W. 18th Place, Illinois 60623

EXHIBIT C-2

Legal Description of Alley Parcel

The East 18.00 feet along with the North 40.00 feet of the West 40.00 feet of the East 58.00 feet of a tract of land described as: Lots 13 to 28 inclusive in the Resubdivision of Lots 6 to 12 inclusive in W.A. James Subdivision of Lot 4 (except the West 243.54 feet) in Executor's Subdivision of Lot 3 in the partition of the Southeast Quarter of Section 22, Township 39 North, Range 13 East of the Third Principal Meridian, along with the South Half of that part of West 18th Place and the public alley lying adjacent to said Lots, vacated by ordinance passed June 2, 1967 and recorded August 30, 1967 as Document No. 20246302, in Cook County, Illinois.

Parcel Number: 16-22-409-036-0000 (part of)

Real Estate Address: 4314-46 W. 19th Place, Chicago, Illinois 60623

EXHIBIT D

Construction Requirements

A. Construction Contract. Upon DPD's request, the Developer Parties must provide DPD with a certified copy of the construction contract, together with any modifications, amendments or supplements thereto, and upon DPD's request, a copy of any subcontracts.

B. Performance and Payment Bonds. Prior to the commencement of any portion of the Project which includes work on the public way, the Developer Parties must require the General Contractor to be bonded for its payment by sureties having an AA rating or better using a bond in a form acceptable to the City. The City shall be named as obligee or co-obligee on any such bonds subject to HUD's applicable requirements regarding the HUD Loan.

C. Employment Profile. Upon DPD's request, the Developer Parties, the General Contractor and all subcontractors must submit to DPD statements of their respective employment profiles.

D. Prevailing Wage. The Developer Parties, the General Contractor and all subcontractors must pay the prevailing wage rate as ascertained by the Illinois Department of Labor (the "Department"), to all persons working on the Project. All such contracts shall list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If the Department revises such prevailing wage rates, the revised rates shall apply to all such contracts. Upon the City's request, the Developer Parties shall provide the City with copies of all such contracts entered into by the Developer Parties or the General Contractor to evidence compliance with this Paragraph D.

E. Employment Opportunity. The Developer Parties shall contractually obligate its or their various contractors, subcontractors or any Affiliate of the Developer Parties operating on the Property (collectively, with the Developer Parties, the "Employers" and individually an "Employer") to agree, that for the Term of this Agreement with respect to Developer Parties and during the period of any other party's provision of services in connection with the construction of the Project or occupation of the Property:

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

conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex,

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

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

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

4) Each Employer, in order to demonstrate compliance with the terms of this Paragraph, 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.

5) Each Employer shall include the foregoing provisions of subparagraphs (1) through (4) in every contract entered into in connection with the Project, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any Affiliate operating on the Property, so that each such provision shall be binding upon each contractor, subcontractor or Affiliate, as the case may be.

6) Failure to comply with the employment obligations described in this Paragraph E shall be a basis for the City to pursue its remedies under the Redevelopment Agreement.

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

The Developer Parties may request a reduction or waiver of this minimum percentage level of Chicagoans as provided for in Section 2-92-330 of the Municipal Code of Chicago in accordance with standards and procedures developed by the Chief Procurement Officer of the City.

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

The Developer Parties, the General Contractor and each subcontractor shall provide for the maintenance of adequate employee residency records to show that actual Chicago residents are employed on

the Project. Each Employer shall maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

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

The Developer Parties, the General Contractor and each subcontractor shall provide full access to their employment records to the Chief Procurement Officer, the Commissioner of DPD, the Superintendent of the Chicago Police Department, the Inspector General or any duly authorized representative of any of them. The Developer Parties, the General Contractor and each subcontractor shall maintain all relevant personnel data and records for a period of at least three (3) years after final acceptance of the work constituting the Project.

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

Good faith efforts on the part of the Developer Parties, the General Contractor and each subcontractor to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Chief Procurement Officer) shall not suffice to replace the actual, verified achievement of the requirements of this Paragraph concerning the worker hours performed by actual Chicago residents.

When work at the Project is completed, in the event that the City has determined that the Developer Parties has failed to ensure the fulfillment of the requirement of this Paragraph 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 Paragraph. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1 percent (0.0005) of the aggregate hard construction costs set forth in the Project budget (the product of .0005 x such aggregate hard construction costs) (as the same shall be evidenced by approved contract value for the actual contracts) shall be surrendered by the Developer Parties 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 Parties, the General Contractor and/or the subcontractors to prosecution. Any retainage to cover contract performance that may become due to the Developer Parties pursuant to Section 2-92-250 of the Municipal Code of Chicago may be withheld by the City pending the Chief Procurement Officer's determination as to whether the Developer Parties must surrender damages as provided in this paragraph.

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

The Developer Parties shall cause or require the provisions of this Paragraph F to be included in all construction contracts and subcontracts related to the Project.

G. The Developer Parties' MBE/WBE Commitment.

The Developer Parties agrees for itself and its successors and assigns, and, if necessary to meet the requirements set forth herein, shall contractually obligate the General Contractor to agree that, during the Project:

(1) Consistent with the findings which support the Minority-Owned and Women-Owned Business Enterprise Procurement Program (the "MBE/WBE" Program"), Section 2-92-420 et seq., Municipal Code of Chicago, and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this Paragraph G, during the course of the Project, at least the following percentages of the MBE/WBE Budget attached hereto as Exhibit E-2 (as these budgeted amounts may be reduced to reflect decreased actual costs) shall be expended for contract participation by MBEs or WBEs:

- i. At least 24 percent by MBEs.
- ii. At least 4 percent by WBEs.

2. For purposes of this Paragraph G only, the Developer Parties (and any party to whom a contract is let by the Developer Parties in connection with the Project) shall be deemed a "contractor" and this Agreement (and any contract let by the Developer Parties in connection with the Project) shall be deemed a "contract" as such terms are defined in Section 2-92-420, Municipal Code of Chicago.

3) Consistent with Section 2-92-440, Municipal Code of Chicago, the Developer Parties' MBEAA/BE commitment may be achieved in part by the Developer Parties' status as an MBE or WBE (but only to the extent of any actual work performed on the Project by the Developer Parties), 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 Parties utilizing a MBE or a WBE as a General Contractor (but only to the extent of any actual work performed on the Project by the General Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the Project to one or more MBEs or WBEs, or by the purchase of materials used in the Project from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to the Developer Parties' MBEAA/BE commitment as described in this Paragraph G. The Developer Parties or the General Contractor may meet all or part of this commitment through credits received pursuant to Section 2-92-530 of the Municipal Code of Chicago for the voluntary use of MBEs or WBEs in its activities and . operations other than the Project.

4) Prior to the City's issuance of a Certificate, the Developer Parties shall provide to DPD a final report describing its efforts to achieve compliance with this MBEAA/BE commitment. Such report shall include inter alia the name and business address of each MBE and WBE solicited by the Developer Parties or the General Contractor to work on the Project, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the Project, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist DPD in determining the Developer Parties' compliance with this MBEAA/BE commitment. DPD has access to the Developer Parties' books and records, including, without limitation, payroll records, books of account and tax returns, and records and books of account in accordance with the Redevelopment Agreement, on

five (5) business days' notice, to allow the City to review the Developer Parties' compliance with its commitment to MBEAA/BE participation and the status of any MBE or WBE performing any portion of the

Project.

5) Upon the disqualification of any MBE or WBE General Contractor or subcontractor, if such status was misrepresented by the disqualified party, the Developer Parties 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 Section 2-92-540, Municipal Code of Chicago.

6) Any reduction or waiver of the Developer Parties' MBEAA/BE commitment as described in this Paragraph G shall be undertaken in accordance with Section 2-92-450, Municipal Code of Chicago.

7) Prior to the commencement of the Project, the Developer Parties, the General Contractor and all major subcontractors shall be required to meet with the monitoring staff of DPD with regard to the Developer Parties' compliance with its obligations under this Paragraph G. During this meeting, the Developer Parties shall demonstrate to DPD its plan to achieve its obligations under this Paragraph G, the sufficiency of which shall be approved by DPD. During the Project, the Developer Parties shall, upon the request of the monitoring staff of DPD, such interim reports as the monitoring staff may require. Failure to submit such documentation on a timely basis, or a determination by DPD, upon analysis of the documentation, that the Developer Parties is not complying with its obligations hereunder shall, upon the delivery of written notice to the Developer Parties, be deemed an Event of Default hereunder.

H. Books and Records. The Developer Parties, the general contractor and each subcontractor shall keep and maintain books and records that fully disclose the total actual cost of the Project and the disposition of all funds from whatever source allocated thereto and as otherwise necessary to evidence the Developer Parties' compliance with its obligations under this Agreement, including, but not limited to, payroll records, general contractor's and subcontractors' sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices and the like. Such books and records shall be available at the applicable party's offices for inspection, copying, audit and examination by an authorized representative of the City, at the Developer Parties' expense.

I. Incorporation in Other Contracts. The general contract and each subcontract shall include a rider incorporating Paragraphs C, D, E(5) and H of this Exhibit D and the insurance requirements in Exhibit L. The general contract shall also incorporate in such rider Paragraphs F and G of this Exhibit D.

EXHIBIT E-1

Project Budget

Land Acquisition	\$ 1
Hard Construction Costs (73.1% of TPC)	\$20,172,961

Soft Costs

Architect's Fee (1.91 % of hard costs)	\$ 526,500
Loan Origination Fee (2.8% of loan)	\$ 341,600
Legal Fees (0.78% of total costs)	\$ 215,000
Marketing (1.00% of total costs)	\$ 275,000
Loan Interest (1.68% of total costs)	\$ 464,836
Environmental (.72% of total costs)	\$ 200,000
Reserves (12.68% of total costs)	\$ 3,499,202

Developer Fee (3.59% of total costs)	\$ 990,000
Other Soft Costs (3.34% of total costs)	\$ 921,947
<u>Total Soft Costs (26.9% of total costs)</u>	<u>\$ 7,434,085</u>
Total Uses	\$27,607,047

EXHIBIT E-2 MBE/WBE Project Budget

\$17,536,082

MBE Total at 26% WBE Total at 4.3%
\$ 4,559,381 \$ 754,051

EXHIBIT F

Permitted Liens

1. Liens or encumbrances against the Property:

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

2. Liens or encumbrances against the Developer Parties or the Project, or the Property, if any, to secure indebtedness payable to the Developer's project lender, including, without limitation, a First Mortgage, Assignment of Rents and Leases, Fixture Filing, blanket UCC financing statements and the like and all documents associated with the HUD Loan (including regulatory agreements) and LIHTC Regulatory Agreement.

EXHIBIT G Approved Prior Expenditures

Prior TIF Eligible Expenditures:

Property assembly costs, including acquisition, demolition of buildings, site preparation, and engineered barriers.

Costs of rehabilitation, reconstruction, or repair or remodeling of existing public or private buildings

Financing costs, including interest accruing during construction.

TOTAL

EXHIBIT H

Requisition Form

State of Illinois)

)SS

COUNTY OF COOK)

The affiant, Philip I. Mappa, the President of Montclare Lawndale SLF, Corp, an Illinois corporation and Managing Member of Lawndale SLF, LLC, an Illinois limited liability company and Manager of Monclare Senior Residences SLF of Lawndale, LLC, an Illinois limited liability company, (the "Developer"), hereby certifies that with respect to that certain Montclare Senior Residences SLF of Lawndale, LLC Redevelopment Agreement between the Developer Parties and the City of Chicago dated _____, 2015 (the "Agreement"):

A. Expenditures (final cost) for the Project, in the total amount of \$ _____, have been made:

B. This paragraph B sets forth and is a true and complete statement of all costs of TIF-Funded Improvements for the Project reimbursed by the City to date:

\$ _____

C. Montclare Corp. requests reimbursement for the following cost of TIF-Funded Improvements:

\$ _____

D. None of the costs referenced in paragraph C above have been previously reimbursed by the City.

E. The Developer Parties hereby certify to the City that, as of the date hereof:

1. Except as described in the attached certificate, the representations and warranties contained in the Redevelopment Agreement are true and correct and the Developer Parties is in compliance with all applicable covenants contained herein.

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

3. The number of FTEs currently employed at the Property is _____

4. The Developer Parties have maintained its operations within the City of Chicago and is operating the Property for the same use and at substantially the same capacity as described in the Developer Parties' TIF application and/or the Redevelopment Agreement.

5. The financial statements for the Developer Parties' most recently-concluded fiscal year are attached to this Requisition Form.

F. Attached hereto is a copy of the final approval of the Monitoring and Compliance Division of the Department of Planning and Development with respect to MBEAA/BE, City Resident hiring and prevailing wage matters. [ATTACH WITH FIRST REQUISITION FORM ONLY]

G. Attached hereto are copies of the front and back of the building permit for the work covered by the Project, and/or, if applicable, the certificate of occupancy for the Project. [ATTACH

WITH FIRST REQUISITION FORM ONLY]

H. Attached hereto is a copy of the inspecting architect's confirmation of construction completion. [ATTACH WITH THE FIRST REQUISITION FORM ONLY, IF REQUESTED BY DPD.]

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

Montclare Senior Residences of Lawndale SLF, LLC, an Illinois limited liability company

By: Lawndale SLF, LLC, an Illinois limited liability company, its Manager

BY: Montclare Lawndale SLF Corp., an Illinois corporation, its Managing Member

By:
Philip I. Mappa, its President

Montclare Lawndale SLF Corp., an Illinois corporation,

By:
Philip I. Mappa, its President

Subscribed and sworn before me this day of

My commission expires: Agreed and

accepted:

Name Title:
City of Chicago
Department of Planning and Development

EXHIBIT I TIF-Funded Improvements

\$17,195,493 \$15,475,944 \$ 930,379 \$ 837,341

Total 90% Affordable

\$ 1,303, 516 \$ 378,900 \$ 103,140

\$1,303,516 \$ 421,000 \$ 114,600

Construction Contingency-Hard Site Work* Architecture

Engineering Total

*Site work is a 100% TIF eligible cost

50% Eligible \$7,737,972 \$ 418,671 \$ 1,303.516 \$ 189,450 \$ 51,570 \$9,701,179

The Commissioner shall have authority to consent to adjustments between the line items set forth above and consent to additional TIF-Funded Improvement redevelopment project costs within other categories authorize under the Act.

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

EXHIBIT J-1

Form of Subordination Agreement

This document prepared by and after recording return to:

Charles E. Rodgers, Jr., Esq.

Assistant Corporation Counsel

Department of Law

121 North LaSalle Street, Room 600

Chicago, IL 60602

SUBORDINATION AGREEMENT

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

WITNESSETH:

WHEREAS, Montclare Senior Residences SLF, LLC, and Illinois limited liability company, (the "Developer") intends to undertake the redevelopment project described in Exhibit B hereto (the "Project"), which includes construction of a five story senior supportive living facility comprising a total of 120 senior affordable living housing units within the Area and commonly known as 4339-4347 W. 18th Place (4315 W. 18th Place) and 4314-4346 W. 19th Street, Chicago, Illinois 60623 and legally described on Exhibit C (the "Property"). The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement. The Project will be carried out in accordance with this Agreement and the City of Chicago Ogden/ Pulaski Increment Financing Redevelopment Project Area and the City of Chicago Roosevelt/Cicero Increment Financing Redevelopment Project Area.

WHEREAS, [INSERT BANK NAME] ("Lender") and [INSERT BORROWER NAME] (the "Borrower"), have entered into a certain Loan Agreement dated as of _____

pursuant to which the Lender has agreed to make a loan to the Borrower in an amount not to exceed (the "Loan"), which Loan is evidenced by a Mortgage Note and executed by the Borrower in favor of the Lender (the "Note"), and the repayment of the Loan is secured by, among other things, certain liens and encumbrances on the Property and other property of the Borrower pursuant to the following: (i) Mortgage dated _____ and recorded as document number _____ made by the Borrower to the Lender; and (ii) Assignment of Leases and Rents dated _____ and recorded as document number _____ made by the Borrower to the Lender (all such agreements referred to above and otherwise relating to the Loan referred to herein collectively as the "Loan Documents");

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

WHEREAS, pursuant to the Redevelopment Agreement, the Developer will agree to be bound by certain covenants expressly running with the Property, as set forth in Sections 8.01(1), 8.02, 8.05 and 8.14 of the Redevelopment Agreement (the "City Encumbrances");

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

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

Lender's
and
provided

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

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

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

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

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

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

If to the City: City of Chicago Department of Planning and
Development
121 North LaSalle Street, Room 1000 Chicago, Illinois
60602 Attention: Commissioner

With a copy to: City of Chicago Department of Law
121 North LaSalle Street, Room 600 Chicago,
Illinois 60602
Attention: Finance and Economic Development Division

If to the Lender:

Attention:

With a copy to:

Attention:

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

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

[The remainder of this page is intentionally left blank.]

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

[LENDER], [a national banking association]

By: Its:

CITY OF CHICAGO

By:

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

ACKNOWLEDGED AND AGREED TO THIS
DAY OF

Montclare Senior Residences of Lawndale SLF, LLC, an Illinois limited liability company

By: Lawndale SLF, LLC, an Illinois limited liability company, its Manager

BY: Montclare Lawndale SLF Corp., an Illinois corporation, its Managing Member

By,
Philip I. Mappa, its President

Montclare Lawndale SLF Corp., an Illinois corporation

By:
Philip I. Mappa, its President

Notary Public

My Commission Expires

(SEAL)

EXHIBIT A - LEGAL DESCRIPTION

(SUBJECT TO FINAL SURVEY AND TITLE COMMITMENT)

PARCEL 1:

LOTS 13 TO 28 INCLUSIVE IN THE RESUBDIVISION OF LOTS 6 TO 12 INCLUSIVE IN W. A. JAMES SUBDIVISION OF LOT 4 (EXCEPT THE WEST 243.54 FEET) IN EXECUTOR'S SUBDIVISION OF LOT 3 IN THE PARTITION OF THE SOUTH EAST 1/4 OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 2:

LOTS 1 TO 4 INCLUSIVE AND LOTS 17 TO 20 IN BLOCK 2 IN S. HAIR'S SUBDIVISION OF THE WEST 243.54 FEET OF LOT 4 IN EXECUTOR'S SUBDIVISION OF LOT 3 IN PARTITION OF THE SOUTH EAST 1/4 OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 3:

THE SOUTH HALF OF THAT PART OF WEST 18TH PLACE AND THE PUBLIC ALLEYS LYING ADJACENT TO SAID LOTS, VACATED BY ORDINANCE PASSED JUNE 2, 1967 AND RECORDED AUGUST 30, 1967 AS DOCUMENT NO. 20246302, ALL IN COOK COUNTY, ILLINOIS.

EXCLUDING AND EXCEPTING THEREFROM THE FOLLOWING:

THE EAST 18 FEET ALONG WITH THE NORTH 40 FEET OF THE WEST 40 FEET OF THE EAST 58 FEET OF A TRACT OF LAND DESCRIBED AS FOLLOWS:

LOTS 13 TO 28 INCLUSIVE IN THE RESUBDIVISION OF LOTS 6 TO 12 INCLUSIVE IN W. A. JAMES SUBDIVISION OF LOT 4 (EXCEPT THE WEST 243.54 FEET) IN EXECUTOR'S SUBDIVISION OF LOT 3 IN THE PARTITION OF THE SOUTH EAST 1/4 OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, LONG WITH THE SOUTH 1/2 OF THAT PART OF WEST 18TH PLACE AND THE PUBLIC ALLEY LYING ADJACENT TO SAID LOTS, VACATED BY ORDINANCE PASSED JUNE 2, 1967 AND RECORDED AUGUST 30, 1967 AS DOCUMENT NUMBER 20246302, IN COOK COUNTY, ILLINOIS.

Parcel Number: 16-22-409-036-0000 (part of) 16-22-409-037-0000

Real Estate Address: 4339-4347 W. 18th Place, Illinois 60623

Exhibit J-2 HUD Form of Subordination

Subordination
Agreement - Financing
Section 232

U.S. Department of Housing
and Urban Development
Office of Residential
Care Facilities

OMB Approval No. 2502-0605
(exp. 06/30/2017)

Public reporting burden for this collection of information is estimated to average 0.5 hours. This includes the time for collecting, reviewing, and reporting the data. The information is being collected to obtain the supportive documentation which must be submitted to HUD for approval, and is necessary to ensure that viable projects are developed and maintained. The Department will use this information to determine if properties meet HUD requirements with respect to development, operation and/or asset management, as well as ensuring the continued marketability of the properties. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Warning: Any person who knowingly presents a false, fictitious, or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability, and administrative sanctions.

Project Name:
FHA Project No.:

This Subordination Agreement (this "Agreement") is entered into this day of , 20 between and among (i) , a organized and existing under the laws of ("Senior Lender"), (ii) , a organized and existing under the laws of ("Subordinate Lender"), and (iii) , a organized and existing under the laws of ("**Borrower**").

RECITALS:

WHEREAS, Borrower is the owner of that certain [skilled nursing facility/assisted living facility/board and care home] known as (the "Project"), located at .
Senior Lender has made or is making the senior mortgage loan as described on Schedule A, attached hereto and incorporated herein by this reference (the "Senior Indebtedness"), to Borrower in the original principal amount(s) as shown on Schedule A, evidenced by the note described in Schedule A (the "Senior Note"), and secured by, among other things, the security instrument as described in Schedule A (collectively, the "Senior Security Instrument"), covering the property described in Exhibit A, attached hereto and incorporated herein by this reference, together with all improvements thereon and personal property used relative thereof, all as more particularly described in the Senior Security Instrument (the "Mortgaged Property").

WHEREAS, Borrower has requested Senior Lender to permit Subordinate Lender to make
a subordinate loan to Borrower in the amount of \$ (the "Subordinate Loan") and to

secure the Subordinate Loan by, among other things, placing a mortgage lien against the Mortgaged Property. *

WHEREAS, Senior Lender, with the approval of the U.S. Department of Housing and Urban Development ("HUD"), has agreed to permit Subordinate Lender to make the Subordinate Loan and to place a subordinate mortgage lien against the Mortgaged Property subject to all of the conditions contained in this Agreement and in accordance with Program Obligations, as defined below.

NOW, THEREFORE, in order to induce Senior Lender to permit Subordinate Lender to make the

Subordinate Loan to Borrower and to place a subordinate mortgage lien against the Mortgaged Property, and in consideration thereof, Senior Lender, Subordinate Lender and Borrower agree as follows:

1. DEFINITIONS. Any capitalized term or word used herein but not defined shall have the meaning given to such term in the Senior Security Instrument. The following terms, when used in this Agreement (including when used in the above recitals), shall have the following meanings, whether capitalized or not and whether singular or plural, unless, in the context, an incongruity results:

"Affiliate" is defined in 24 C.F.R. 200.215, or any successor regulation.

"Bankruptcy Proceeding" means any bankruptcy, reorganization, insolvency, composition, restructuring, dissolution, liquidation, receivership, assignment for the benefit of creditors, or custodianship action or proceeding under any federal or state law with respect to Borrower, any guarantor of any of the Senior Indebtedness, any of their respective properties, or any of their respective partners, members, officers, directors, or shareholders.

"Borrower" means all entities identified as "Borrower" in the first paragraph of this Agreement, together with any successors, heirs, and assigns (jointly and severally). "Borrower" shall include any Entity taking title to the Mortgaged Property, whether or not such person or Entity assumes the Senior Note, provided that the term "Borrower" shall not include Senior Lender in the event that Senior Lender may acquire title to the Mortgaged Property. The "Borrower" is sometimes also referred to in the Senior Loan Documents as the "Obligor," the "Owner," and/or the "Mortgagor."

"Business Day" means any day other than a Saturday, a Sunday, a federal holiday or other day on which the federal government by law or executive order is closed, or a day on which banking institutions in the state in which the Mortgaged Property is located are authorized or obligated by law or executive order to remain closed.

"Casualty" is defined in Section 9.

"Covenant Event of Default" has the meaning set forth in the Senior Security Instrument.

"Entity" means an estate, trust, partnership, corporation, limited liability company, limited liability partnership, governmental department or agency or any other entity which has the legal capacity to own property.

"Monetary Event of Default" has the meaning set forth in the Senior Security Instrument.

"Non-Project Sources" means any funds that are not derived from Project Sources.

"Program Obligations" means (1) all applicable statutes and any regulations issued by HUD pursuant thereto that apply to the Project, including all amendments to such statutes and regulations, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and (2) all current requirements in HUD handbooks and guides, notices, and mortgagee letters that apply to the Project, and all future updates, changes and amendments thereto, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and provided that such future updates, changes and amendments shall be applicable to the Project only to the extent that they interpret, clarify and implement terms in this Agreement rather than add or delete provisions from such document. Handbooks, guides, notices, and

mortgagee letters are available on HUD's official website:
<<http://www.hud.gov/offices/adm/hudclips/index.cfm>>. or a successor location to that site.

"Project Sources" means the Mortgaged Property (as defined in the Senior Security Instrument), any proceeds of the Senior loan, and any reserve or deposit made with Senior Lender or any other party as required by HUD in connection with the senior loan.

"Senior Indebtedness" means all present and future indebtedness, obligations, and liabilities of Borrower to Senior Lender under or in connection with the Senior loan or the Senior Loan Documents.

"Senior Lender" means the Entity identified as "Senior Lender" in the first paragraph of this Agreement, together with any successors, heirs, and assigns (jointly and severally).

"Senior Loan Documents" means the Senior Note, the Senior Security Instrument, and the Healthcare Regulatory Agreement - Borrower between Borrower and HUD, as such documents may be amended from time to time and all other documents at any time evidencing, securing, guaranteeing, or otherwise delivered in connection with the Senior Indebtedness.

"Senior Security Instrument Default" means a Monetary Event of Default or a Covenant Event of Default.

"Subordinate Indebtedness" means all present and future indebtedness, obligations, and liabilities of Borrower to Subordinate Lender under or in connection with the Subordinate Loan or the Subordinate Loan Documents.

"Subordinate Lender" means the Entity that qualifies under Program Obligations and identified as "Subordinate Lender" in the first paragraph of this Agreement.

"Subordinate Loan Documents" means the Subordinate Note, the Subordinate Mortgage, and all other documents at any time evidencing, securing, guaranteeing, or otherwise delivered in connection with the Subordinate Indebtedness.

"Subordinate Loan Enforcement Action" means the acceleration of all or any part of the Subordinate Indebtedness, the advertising of or commencement of any foreclosure or trustee's

sale proceedings, the exercise of any power of sale, the acceptance of a deed or assignment in lieu of foreclosure or sale, the collecting of rents, the obtaining of or seeking of the appointment of a receiver, the seeking of default interest, the taking of possession or control of any of the Mortgaged Property, the commencement of any suit or other legal, administrative, or arbitration proceeding based upon the Subordinate Loan Documents, the exercising of any banker's lien or rights of set-off or recoupment, or the taking of any other enforcement action against Borrower, any other party liable for any of the Subordinate Indebtedness or obligated under any of the Subordinate Loan Documents, or the Mortgaged Property.

"Subordinate Mortgage Default" means any act, failure to act, event, condition, or occurrence which allows (but for any contrary provision of this Agreement), or which with the giving of notice or the passage of time, or both, would allow (but for any contrary provision of this Agreement), Subordinate Lender to take a Subordinate Loan Enforcement Action.

"Surplus Cash" has the meaning set forth in the Healthcare Regulatory Agreement - Borrower between Borrower and HUD.

"Taking" is defined in Section 9.

2. PERMISSION TO PLACE A MORTGAGE LIEN AGAINST THE MORTGAGED PROPERTY. Senior Lender agrees, subject to the provisions of this Agreement, to permit Subordinate Lender to record the Subordinate Mortgage and other recordable Subordinate Loan Documents against the Mortgaged Property (which are subordinate in all respects to the lien of the Senior Security Instrument) in order to secure Borrower's obligation to repay the Subordinate Note and all other obligations, indebtedness and liabilities of Borrower to Subordinate Lender under and in connection with the Subordinate Loan. Such permission is subject to the condition that each of the representations and warranties made by Borrower and Subordinate Lender in Section 3 are true and correct on the date of this Agreement and on the date on which the proceeds of the Subordinate Loan are disbursed to Borrower. If any of the representations and warranties made by Borrower and Subordinate Lender in Section 3 are not true and correct on both of those dates, the provisions of the Senior Loan Documents applicable to unpermitted liens on the Mortgaged Property shall apply.

3. BORROWER'S AND SUBORDINATE LENDER'S REPRESENTATIONS AND WARRANTIES. Borrower and, with respect to subsections (a) through (d) below, Subordinate Lender, each make the following representations and warranties to Senior Lender:

a) Subordinate Loan Documents. The Subordinate Loan is evidenced by the Subordinate Note and is secured by the Subordinate Mortgage.

b) Term of the Subordinate Loan. The original principal amount of the Subordinate Note is \$. Interest on the Subordinate Note accrues monthly at the rate of percent (%) per annum. The Subordinate Note is due and payable in full on , 20 , (the "Maturity"). The principal of the Subordinate Note will [be fully amortized at Maturity][have a balloon principal payment of \$ due at Maturity]. The promissory note evidencing the Subordinate Note obligates Borrower to make payments as follows, subject to available Surplus Cash: . As long as HUD is the insurer or

holder of the Senior Note on FHA Project No. , any payments due from income of the Project under the Subordinate Note shall be payable only (i) from permissible distributions of {omit "permissible distributions from" if Borrower is profit-motivated} Surplus Cash of the Project; but, in no event greater than seventy-five percent (75%) of the total amount of Surplus Cash; or (ii) from monies received from Non-Project Sources. No prepayment of the Subordinate Note shall be made until after final endorsement by HUD of the Senior Note, unless such prepayment is made from Non-Project Sources and is approved in writing by HUD. The restriction on payment imposed by this Section shall not excuse any default caused by the failure of Borrower to pay the indebtedness evidenced by the Subordinate Note.

c) Relationship of Borrower to Subordinate Lender. Subordinate Lender is not an Affiliate of Borrower.

d) Term. The term of the Subordinate Note does not end before the term of the Senior Note.

e) Subordinate Loan Documents. The executed Subordinate Loan Documents are substantially in the same form as those submitted to, and approved by, HUD prior to the date of this Agreement. Upon execution and delivery of the Subordinate Loan Documents, Borrower shall deliver to Senior Lender an executed copy of each of the Subordinate Loan Documents, certified to be true, correct and complete.

f) Senior Loan Documents. The executed Senior Loan Documents are the same forms as

approved by HUD prior to the date of this Agreement. Upon execution and delivery of the Senior Loan Documents, Borrower shall deliver to Subordinate Lender an executed copy of each of the Senior Loan Documents, certified to be true, correct and complete.

4. Deliveries. Borrower shall submit the following items to Senior Lender and HUD not later than ten (10) Business Days after the date of the initial disbursement of proceeds of the Subordinate Loan:

a) Title Policy Endorsement. An endorsement to the policy of title insurance insuring the lien of the Senior Security Instrument which insures that (i) the lien of the Subordinate Mortgage is subordinate to the lien of the Senior Mortgage, and (ii) this Agreement has been recorded among the applicable land records.

b) Certification. A certification from Borrower and Subordinate Lender to HUD that the Subordinate Loan Documents do not contain any changes from the Subordinate Loan Documents submitted to, and approved by, HUD, before the date of this Agreement.

c) Subordinate Loan Documents. A complete set of the Subordinate Loan Documents.

5. TERMS OF SUBORDINATION.

a) Agreement to Subordinate. Senior Lender and Subordinate Lender agree that: (i) the Subordinate Indebtedness is and shall be subordinated in right of payment, to the extent and in the manner provided in this Agreement, to the prior payment in full of the Senior Indebtedness, and (ii) the Subordinate Mortgage and the Subordinate Loan Documents are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Senior Security Instrument and the Senior Loan Documents and to all advances heretofore made or which may hereafter be made pursuant to the Senior Security Instrument and the Senior Loan Documents (including but not limited to, all sums advanced for the purposes of (1) protecting or further securing the lien of the Senior Security Instrument, curing defaults by Borrower under the Senior Loan Documents or for any other purpose expressly permitted by the Senior Security Instrument, or (2) constructing, renovating, repairing, furnishing, fixturing or equipping the Mortgaged Property). Subordinate Lender agrees to extinguish and release its lien on any and all of the Mortgaged Property in the event Senior Lender, HUD, or a designee of either acquires the Mortgaged Property pursuant to a deed in lieu of foreclosure.

b) Subordination of Subrogation Rights. Subordinate Lender agrees that if, by reason of its payment of real estate taxes or other monetary obligations of Borrower, or by reason of its exercise of any other right or remedy under the Subordinate Loan Documents, it acquires by right of subrogation or otherwise a lien on the Mortgaged Property which (but for this subsection) would be senior to the lien of the Senior Security Instrument, then, in that event, such lien shall be subject and subordinate to the lien of the Senior Security Instrument.

c) Payments Before Senior Security Instrument Default. Until Subordinate Lender receives a default notice of a Senior Security Instrument Default from Senior Lender, Subordinate Lender shall be entitled to retain for its own account all payments made under or pursuant to the Subordinate Loan Documents provided that such payments are otherwise permitted under the terms of this Agreement.

d) Payments After Senior Security Instrument Default. Borrower agrees that, after it receives notice (or otherwise acquires knowledge) of a Senior Security Instrument Default, it will not make any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorneys' fees, or any other sums secured by the Subordinate Mortgage) without Senior Lender's prior written consent. Subordinate Lender agrees that, after it receives a default notice from Senior Lender with written instructions directing Subordinate Lender not to accept payments from Project Sources on account of the Subordinate Loan, it will not accept any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorneys' fees, or any other sums secured by the

Subordinate Mortgage) unless either (i) such payment is being made solely from Non-Project Sources or (ii) such payment is made with Senior Lender's prior written consent. If Subordinate Lender receives written notice from Senior Lender that the Senior Security Instrument Default which gave rise to Subordinate Lender's obligation not to accept payments has been cured, waived, or otherwise suspended by Senior Lender, the restrictions on payment to Subordinate Lender in this Section 5 shall terminate, and Senior Lender shall have no right to any subsequent payments made to Subordinate Lender by Borrower prior to Subordinate Lender's receipt of a new default notice from Senior Lender in accordance with the provisions of this Section 5(d).

e) **Remitting the Subordinate Loan Payments to Senior Lender.** If, after Subordinate Lender receives a default notice from Senior Lender in accordance with subsection (d) above, Subordinate Lender receives any payments under the Subordinate Loan Documents (other than payments permitted under subsection (d) above), Subordinate Lender agrees that such payment or other distribution will be received and held in trust for Senior Lender and unless Senior Lender otherwise notifies Subordinate Lender in writing, will be promptly remitted, in kind to Senior Lender, properly endorsed to Senior Lender, to be applied to the principal of, interest on and other amounts due under the Senior Loan Documents in accordance with the provisions of the Senior Loan Documents. By executing this Agreement, Borrower specifically authorizes Subordinate Lender to endorse and remit any such payments to Senior Lender, and specifically waives any and all rights to have such payments returned to Borrower or credited against the Subordinate Loan. Borrower and Senior Lender acknowledge and agree that payments received by Subordinate Lender, and remitted to Senior Lender under this Section 5, shall not be applied or otherwise credited against the Subordinate Loan, nor shall the tender of such payment to Senior Lender waive any Subordinate Mortgage Default which may arise from the inability of Subordinate Lender to retain such payment or apply such payment to the Subordinate Loan.

f) **Agreement Not to Commence Bankruptcy Proceeding.** Subordinate Lender agrees that during the term of this Agreement it will not commence, or join with any other creditor in commencing any Bankruptcy Proceeding with respect to Borrower, without Senior Lender's prior written consent.

6. DEFAULT UNDER THE SUBORDINATE LOAN DOCUMENTS.

(a) **Notice of Default and Cure Rights.** Subordinate Lender shall deliver to Senior Lender a default notice within five (5) Business Days in each case where Subordinate Lender has given a default notice to Borrower. Failure of Subordinate Lender to send a default notice to

Senior Lender shall not prevent the exercise of Subordinate Lender's rights and remedies under the Subordinate Loan Documents, subject to the provisions of this Agreement. Senior Lender shall have the opportunity, but not the obligation, to cure any Subordinate Mortgage Default within sixty (60) days following the date of such notice; provided, however that Subordinate Lender shall be entitled, during such sixty (60) day period, to continue to pursue its rights and remedies under the Subordinate Loan Documents, subject to the limitations set forth in Section 6(b) below.

(b) **Subordinate Lender's Exercise of Remedies After Notice to Senior Lender.** If a Subordinate Mortgage Default occurs and is continuing, Subordinate Lender agrees that it will not commence foreclosure proceedings with respect to the Mortgaged Property under the Subordinate Loan Documents or exercise any other rights or remedies it may have under the Subordinate Loan Documents with respect to the Mortgaged Property, including, but not limited to accelerating the Subordinate Loan, collecting rents, appointing (or seeking the appointment of) a receiver or exercising any other rights or remedies thereunder without Senior Lender's prior written consent. However, the preceding sentence shall not (i) limit Subordinate Lender's right to bring an action seeking recovery solely from Non-Project Sources or (ii) preclude Subordinate Lender from exercising or enforcing all the rights available to

Subordinate Lender under the Subordinate Loan Documents and/or under applicable law to enforce covenants and agreements of Borrower relating to income, rent or affordability restrictions.

7. DEFAULT UNDER THE SENIOR LOAN DOCUMENTS.

a) Notice of Default and Cure Rights. Senior Lender shall deliver to Subordinate Lender a default notice within five (5) Business Days in each case where Senior Lender has given a default notice to Borrower (provided that Senior Lender shall have no liability to Borrower, Subordinate Lender or to any other Entity for failure to timely give such notice). Failure of Senior Lender to send a default notice to Subordinate Lender shall not prevent the exercise of Senior Lender's right and remedies under the Senior Loan Documents, subject to the provisions of this Agreement. Borrower agrees that Subordinate Lender shall have the opportunity, but not the obligation, to cure either a Monetary Event of Default or a Covenant Event of Default within thirty (30) days following the date of such notice, or any time prior to an assignment of the Senior Security Instrument from Senior Lender to HUD, whichever date is later. Subordinate Lender acknowledges that Senior Lender shall be entitled during such period described above to continue to pursue its remedies under the Senior Loan Documents. Subordinate Lender shall have the opportunity to cure a Covenant Event of Default during such period described above so long as there is no Monetary Event of Default under the Senior Loan Documents. All amounts paid by Subordinate Lender to Senior Lender to cure any default under the Senior Loan Documents shall be deemed to have been advanced by Subordinate Lender pursuant to, and shall be secured by the lien of, the Subordinate Mortgage.

b) Cross Default. Subordinate Lender agrees that, notwithstanding any contrary provision contained in the Subordinate Loan Documents, a Senior Security Instrument Default shall not constitute a default under the Subordinate Loan Documents if no other default occurred under the Subordinate Loan Documents.

8. CONFLICT. Borrower, Senior Lender and Subordinate Lender each agrees that, in the event of any conflict or inconsistency between the terms of the Senior Loan Documents, the Subordinate Loan Documents and the terms of this Agreement, the terms of this Agreement shall govern and control solely as to the following: (a) the

relative priority of the security interests of Senior Lender and Subordinate Lender in the Mortgaged Property; and (b) solely as between Senior Lender and Subordinate Lender, the notice requirements, cure rights, and the other rights and obligations which Senior Lender and Subordinate Lender have agreed to as expressly provided in this Agreement. Borrower acknowledges that the terms and provisions of this Agreement shall not, and shall not be deemed to: extend Borrower's time to cure any Senior Security Instrument Default or Subordinate Mortgage Default, as the case may be; give Borrower the right to notice of any Senior Security Instrument Default or Subordinate Mortgage Default, as the case may be other than that, if any, provided, respectively under the Senior Loan Documents or the Subordinate Loan Documents, as applicable; or create any other right or benefit for Borrower as against Senior Lender or Subordinate Lender.

9. RIGHTS AND OBLIGATIONS OF SUBORDINATE LENDER UNDER THE SUBORDINATE LOAN DOCUMENTS AND OF SENIOR LENDER UNDER THE SENIOR LOAN DOCUMENTS. Subject to each of the other terms of this Agreement, all of the following provisions shall supersede any provisions of the Subordinate Loan Documents covering the same subject matter:

a) Protection of Security Interest. Subordinate Lender shall not, without the prior written consent of Senior Lender in each instance, take any action which has the effect of increasing the Subordinate Indebtedness outstanding under, or secured by, the Subordinate Loan Documents, except that Subordinate Lender shall have the right to advance funds to cure a Senior Security Instrument Default pursuant to Section 7(a) above and advance funds pursuant to the Subordinate Mortgage for the purpose of paying real estate

taxes and insurance premiums, making necessary repairs to the Mortgaged Property and curing other defaults by Borrower under the Subordinate Loan Documents.

b) Condemnation or Casualty. In the event of a taking or threatened taking by condemnation or other exercise of eminent domain of all or a portion of the Mortgaged Property (collectively, a "Taking"); or the occurrence of a fire or other casualty resulting in damage to all or a portion of the Mortgaged Property (collectively, a "Casualty"), at any time or times when the Senior Security Instrument remains a lien on the Mortgaged Property the following provisions shall apply:

- 1) Subordinate Lender hereby agrees that its rights (under the Subordinate Loan Documents or otherwise) to participate in any proceeding or action relating to a Taking and/or a Casualty, or to participate or join in any settlement of, or to adjust, any claims resulting from a Taking or a Casualty shall be and remain subordinate in all respects to Senior Lender's rights under the Senior Loan Documents with respect thereto, and Subordinate Lender shall be bound by any settlement or adjustment of a claim resulting from a Taking or a Casualty made by or with the written consent of Senior Lender; and
- 2) all proceeds received or to be received on account of a Taking or a Casualty, or both, shall be applied (to payment of the costs and expenses of repair and restoration and/or to payment of the Senior Security Instrument)

in the manner determined by Senior Lender in its sole discretion; provided, however, that if Senior Lender elects to apply such proceeds to payment of the principal of, interest on and other amounts payable under the Senior Security Instrument, any proceeds remaining after the satisfaction in full of the principal of, interest on and other amounts payable under the Senior Security Instrument shall be paid to, and may be applied by, Subordinate Lender in accordance with the applicable provisions of the Subordinate Loan Documents. Any proceeds then remaining after the satisfaction in full of the principal of, interest on and other amounts payable under the Subordinate Loan Documents shall be paid by Subordinate Lender to Borrower.

(c) No Modification of the Subordinate Loan Documents. Borrower and Subordinate Lender each agrees that, until the principal of, interest on and all other amounts payable under the Senior Loan Documents have been paid in full, it will not, without the prior written consent of Senior Lender in each instance, increase the amount of the Subordinate Loan, increase the required payments due under the Subordinate Loan, decrease the term of the Subordinate Loan, increase the interest rate on the Subordinate Loan, or otherwise amend the Subordinate Loan terms in a manner that creates an adverse effect upon Senior Lender under the Senior Loan Documents. Any unauthorized amendment of the Subordinate Loan Documents without Senior Lender's consent shall be void ab initio and of no effect whatsoever.

10. MODIFICATION OF THE SENIOR LOAN DOCUMENTS; REFINANCING OF THE SENIOR INDEBTEDNESS. Subordinate Lender consents to any agreement or arrangement in which Senior Lender waives, postpones, extends, reduces or modifies any provisions of the Senior Loan Documents, including any provision requiring the payment of money. Subordinate Lender further agrees that its agreement to subordinate hereunder shall extend to any new mortgage debt which is for the purpose of refinancing all or any part of the Senior Security Indebtedness in accordance with Program Obligations (including reasonable and necessary costs associated with the closing and/or the refinancing); and that all the terms and covenants of this Agreement shall inure to the benefit of any holder of any such

refinanced debt; and that all references to the Senior Indebtedness, the Senior Note, the Senior Security Instrument, the Senior Loan Documents and Senior Lender shall mean, respectively, the indebtedness related to the refinance loan, the refinance note, the security instrument securing the refinance note, all documents evidencing securing or otherwise pertaining to the refinance note and the holder of the refinance note.

11. DEFAULT BY SUBORDINATE LENDER OR SENIOR LENDER. If

Subordinate Lender or Senior Lender defaults in performing or observing any of the terms, covenants or conditions to be performed or observed by it under this Agreement, the other, non-defaulting Lender shall have the right to all available legal and equitable relief.

12. NOTICES. Each notice, request, demand, consent, approval or other communication (hereinafter in this Section referred to collectively as "notices" and referred to singly as a "notice") which Senior Lender or Subordinate Lender is required or permitted to give to the other party pursuant to this Agreement shall be in writing and shall be deemed to have been duly and sufficiently given if: (a) personally delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received at the time so delivered); or (b) sent by Federal Express (or other similar national overnight courier) designating next Business Day delivery (any notice so delivered shall be deemed to have been received on the next Business Day following receipt by the courier); or (c) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the U.S. Postal Service (any notice so sent shall be deemed to have been received two (2) Business Days after mailing in the United States), addressed to the respective parties as follows:

SENIOR LENDER:

With a copy to:

U.S. Department of Housing and Urban Development Director - Office
of Residential Care Facilities 451 Seventh Street, S.W., Room 2247
Washington, DC 20410

SUBORDINATE LENDER:

Either party may, by notice given pursuant to this Section, change the person or persons and/or address or addresses, or designate an additional person or persons or an additional address or addresses for its notices, but notice of a change of address shall only be effective upon receipt.

13. GENERAL.

a) Assignment/Successors. This Agreement shall be binding upon Borrower, Senior Lender and Subordinate Lender and shall inure to the benefit of the respective legal successors and assigns of Senior Lender and Subordinate Lender.

b) No Partnership or Joint Venture. Senior Lender's permission for the placement of the Subordinate Loan Documents does not constitute Senior Lender as a joint venturer or partner of Subordinate Lender. Neither party hereto shall hold itself out as a partner, agent or Affiliate of any other party hereto.

c) Senior Lender's and Subordinate Lender's Consent. Wherever Senior Lender's consent or approval is required by any provision of this Agreement, such consent or approval may be granted or denied by Senior Lender in its sole and absolute discretion, unless otherwise expressly provided in this Agreement. Wherever Subordinate Lender's consent or approval is

required by any provision of this Agreement, such consent or approval may be granted or denied by Subordinate Lender in its sole and absolute discretion, unless otherwise expressly provided in this Agreement.

d) Further Assurances; UCC Financing Statements. Subordinate Lender, Senior Lender and Borrower each agree, at Borrower's expense, to execute and deliver all additional instruments and/or documents reasonably required by any other party to this Agreement in order to evidence that the Subordinate Loan Documents are subordinate to the lien, covenants and conditions of the Senior Loan Documents, or to further evidence the intent of this Agreement. Senior Lender is hereby authorized to file any and all UCC financing statement amendments required to reflect the priority of the Senior Indebtedness.

e) Amendment. This Agreement shall not be amended except by written instrument signed by all parties hereto.

f) Governing Law. This Agreement shall be governed by the laws of the state in which the Mortgaged Property is located, except as, so long as the Senior loan is insured or held by HUD, and solely as to rights and remedies of HUD, federal jurisdiction may be appropriate pursuant to any federal requirements. The state courts, and with respect to HUD's rights and remedies, federal courts, and governmental authorities in the state in which the Mortgaged Property is located, shall have exclusive jurisdiction over all controversies which shall arise under or in relation to the Subordinate Loan Documents. Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise.

g) Severable Provisions. If any provision of this Agreement shall be invalid or unenforceable to any extent, then the other provisions of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

h) Term. The term of this Agreement shall commence on the date hereof and shall continue until the earliest to occur of the following events: (i) the payment of all of the principal of, interest on and other amounts payable under the Senior Loan Documents; (ii) the payment of all of the principal of, interest on and other amounts payable under the Subordinate Loan Documents, other than by reason of payments which Subordinate Lender is obligated to remit to Senior Lender pursuant to Section 5 hereof; (iii) the acquisition by Senior Lender of title to the Mortgaged Property pursuant to a foreclosure; or (iv) the acquisition by Subordinate Lender of title to the Mortgaged Property pursuant to a foreclosure or a deed in lieu of foreclosure of, or the exercise of a power of sale contained in, the Subordinate Mortgage, but only if such acquisition of

title does not violate any of the terms of this Agreement. Notwithstanding the foregoing, in the event that the Senior Indebtedness is refinanced, the term of this Agreement shall continue and the Subordinate Indebtedness and the Subordinate Loan Documents shall be subordinate to any such indebtedness related to the refinance loan as provided in Section 10 above.

- (i) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall together constitute one and the same instrument.

14. The following Exhibit is attached to this Agreement:

Exhibit A Legal Description of the Land IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

SENIOR LENDER:

Name:

Title:

SUBORDINATE LENDER:

Name:

Title:

BORROWER:

By: _ Name: Title:

[JURATS TO BE ADDED]

EXHIBIT A

[LEGAL DESCRIPTION OF THE LAND]

EXHIBIT K

Opinion of Developer's Counsel

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

City of Chicago
121 North LaSalle Street
Chicago, IL 60602

ATTENTION: Corporation Counsel

Ladies and Gentlemen:

We have acted as counsel to Montclare Senior Residences SLF of Lawndale, LLC, an Illinois limited liability company and Montclare Lawndale SLF Corp., an Illinois corporation (collectively, the "Developer"), in connection with the purchase of certain land and the construction of certain facilities thereon located in the Ogden/Pulaski Redevelopment Project Area (the "Project"). In that capacity, we have examined, among other things, the following agreements, instruments and documents of even date herewith, hereinafter referred to as the "Documents":

- (a) Montclare Senior Residences SLF of Lawndale, LLC Redevelopment Agreement (the "Agreement") of even date herewith, executed by the Developer and the City of Chicago (the "City");
- [(b) the Escrow Agreement of even date herewith executed by the Developer and the City;]
- c) [insert other documents including but not limited to documents related to purchase and financing of the Property and all lender financing related to the Project]; and
- d) all other agreements, instruments and documents executed in connection with the foregoing.

In addition to the foregoing, we have examined

- a) the original or certified, conformed or photostatic copies of the Developer's (i) Articles of Organization, as amended to date, (ii) qualifications to do business and certificates of good standing in all states in which the Developer is qualified to do business, (iii) Operating Agreement, as amended to date; and
- b) such other documents, records and legal matters as we have deemed necessary or relevant for purposes of issuing the opinions hereinafter expressed.

In all such examinations, we have assumed the genuineness of all signatures (other than those of the Developer), the authenticity of documents submitted to us as originals and

conformity to the originals of all documents submitted to us as certified, conformed or photostatic copies.

Based on the foregoing, it is our opinion that:

1. The Developer (and each of them) is a limited liability company duly 'organized, validly existing and in good standing under the laws of its state of [organization, has full power and authority to own and lease its properties and to carry on its business as presently conducted, and is in good standing and duly qualified to do business as a domestic limited liability company] under the laws of every state in which the conduct of its affairs or the ownership of its assets requires such qualification, except for those states in which its failure to qualify to do business would not have a material adverse effect on it or its business.

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

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

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

5. ExhibitA attached hereto (a) identifies all Members and other interest Holders (if any) of the Developer and (b) sets forth percentage of ownership of each Member and/or interest Holder. To the best of our knowledge after diligent inquiry, except as set forth on ExhibitA, there are no warrants, options, rights or commitments of purchase, conversion, call or exchange or other rights or restrictions with respect to any Interests of the Developer. Each outstanding interest in the Developer is duly authorized, validly issued, fully paid and nonassessable.

6. To the best of our knowledge after diligent inquiry, no judgments are outstanding against the Developer, nor is there now pending or threatened, any litigation, contested claim or governmental proceeding by or against the Developer or affecting the Developer or its

property, or seeking to restrain or enjoin the performance by the Developer of the Agreement or the transactions contemplated by the Agreement, or contesting the validity thereof. To the best of our knowledge after diligent inquiry, the Developer is not in default with respect to any order, writ, injunction or decree of any court, government or regulatory authority or in default in any respect under any law, order, regulation or demand of any governmental agency or instrumentality, a default under which would have a material adverse

effect on the Developer or its business.

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

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

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

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

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

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

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

Very truly yours,

By:

Name:

EXHIBIT L

Insurance Requirements

The Developer Parties must provide and maintain at Developer Parties' own expense, or cause to be provided and maintained during the Term of the Agreement, the insurance coverages and requirements

specified below, insuring all operations related to the Agreement.

a) **Prior to Execution and Delivery of this Agreement.**

i) **Workers Compensation and Employers Liability**

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

ii) **Commercial General Liability Insurance (Primary and Umbrella)**

Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability, coverages must include the following: All premises and operations, products/completed operations, independent contractors, separation of insureds, defense, and contractual liability (not to include Endorsement CG 21 39 or equivalent). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the Agreement.

iii) **All Risk Property**

All Risk Property Insurance (replacement cost coverage) in the amount of full replacement value of the property to protect against loss of, damage to, or destruction of the building /facility. The City of Chicago is to be named as an additional insured and Loss Payee/Mortgagee if applicable.

b) **Construction**

Prior to the construction of any portion of the Project, Developer Parties will cause its contractors, subcontractors, architects, project managers and other parties related to the construction of the Project to procure and maintain the following kinds and amounts of insurance.

(i) **Workers Compensation and Employers Liability Insurance**

Workers Compensation and Employers Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service

under this Agreement and Employers Liability coverage with limits of not \$500,000 each accident, illness or disease.

ii) **Commercial General Liability Insurance (Primary and Umbrella)**

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations (for a minimum of two (2) years

following project completion), explosion, collapse, underground, independent contractors, separation of insureds, defense, and contractual liability (not to include Endorsement CG 21 39 or equivalent). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

Subcontractors performing work for the Contractor must maintain limits of not less than \$1,000,000 with the same terms herein.

iii) Automobile Liability Insurance (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Contractor must provide Automobile Liability Insurance with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory bases.

iv) Railroad Protective Liability Insurance

When any work is to be done adjacent to or on railroad or transit property, Contractor must provide or cause to be provided, with respect to the operations that the Contractor performs, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy has limits of not less than the requirement of the operating railroad as applicable for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

v) Builders Risk Insurance

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

(vi) Professional Liability

When any architects, engineers, construction/project managers or other professional

consultants perform work in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than \$1,000,000. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

vii) Valuable Papers Insurance

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

viii) Contractor's Pollution Liability

When any remediation or other work is performed which may cause a pollution exposure, Contractor's Pollution Liability must be provided with limits of not less than \$1,000,000 insuring bodily injury, property damage and environmental remediation, cleanup costs and disposal. When policies are renewed, the policy retroactive date must coincide with or precede start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of one (1) year. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

c) **Post Construction**

All Risk Property Insurance (replacement cost coverage) including improvements and betterments in the amount of full replacement value of the property. Coverage extensions are to include business interruption/loss of rents, flood and boiler and machinery if applicable. The City of Chicago is to be named as an additional insured and Loss Payee/Mortgagee if applicable.

d) **Other Requirements**

The Developer Parties must furnish the City of Chicago, Department of Planning and Development, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance evidencing the required coverage to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. Developer Parties must submit evidence of insurance on the City of Chicago Insurance Certificate Form or equivalent. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements of Agreement. The failure of the City to obtain certificates or other insurance evidence from the Developer Parties must not be deemed to be a waiver by the City. The Developer Parties must advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance must not relieve the Developer Parties of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to stop work until proper evidence of insurance is provided, or the Agreement may

be terminated.

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

Any and all deductibles or self-insured retentions on referenced insurance coverages must be borne by the Developer Parties.

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

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

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

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

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

The Developer Parties must require Contractor, and all subcontractors to provide the insurance required herein or Developer Parties may provide the coverages for the Contractor or subcontractors. General Contractor and all subcontractors are subject to the same requirements of Developer Parties unless otherwise specified herein.

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

Notwithstanding any provision to the contrary, the City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements during the Term of the Agreement. executing the Redevelopment Agreement.

SECTION 5. The City is hereby authorized to sell and convey to Borrower the Development Parcel and to Montclare Corp. the Alley Parcel for the land write down sum of One and no/100 Dollars (\$1.00) in accordance with and subject to the terms of the Redevelopment Agreement.

SECTION 6. .The Mayor or his proxy is authorized to execute, and the City Clerk to attest, one or more quitclaim deeds conveying to Borrower the Development Parcel and to the Montclare Corp. the Alley Parcel for the consideration described therein and otherwise in accordance with and subject to the terms of such Redevelopment Agreement.

SECTION 7. To the extent that any ordinance, resolution, rule, order or provision of the Municipal Code of Chicago, or part thereof, is in conflict with the provisions of this ordinance, the provisions of this ordinance shall control. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance. Section 2-45-110 of the Municipal Code of Chicago shall not apply to the Project or the Property (as defined on Exhibit A hereto).

SECTION 8. This ordinance shall be effective as of the date of its passage and approval.