



Office of the City Clerk

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Chicago, IL 60602
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Legislation Details (With Text)

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File created: 2/10/2016
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In control: City Council
Final action: 3/16/2016
Title: Redevelopment agreement with Irving Park Property Holdings LLC for property at 4901, 4925 and 4939 W Irving Park Rd
Sponsors: Emanuel, Rahm
Indexes: Redevelopment
Attachments: 1. O2016-659.pdf, 2. O2016-659 (V1).pdf

Date	Ver.	Action By	Action	Result
3/16/2016	1	City Council	Signed by Mayor	
3/16/2016	1	City Council	Passed	Pass
3/11/2016	1	Committee on Finance	Recommended to Pass	Pass
2/10/2016	1	City Council	Referred	

ORDINANCE

WHEREAS, pursuant to an ordinance adopted by the City Council ("City Council") of the City of Chicago (the "City") on September 9, 1998, and published on that date at pages 76079 to 76144 of the Journal of the Proceedings of the City Council (the "Journal"), a certain redevelopment plan and project (the "Plan") for the Portage Park Redevelopment Project Area (the "Area") was approved pursuant to the Illinois Tax Increment Allocation Redevelopment Act, as amended (65 ILCS 5/11-74.4-1 et seq.) (the "Act"); and

WHEREAS, pursuant to an ordinance adopted by the City Council on September 9, 1998 and published at pages 76145 to 76156 of the^N Journal of such date, the Area was designated as a redevelopment project area pursuant to the Act; and

WHEREAS, pursuant to an ordinance (the "TIF Ordinance") adopted by the City Council on September 9, '1998 and published at pages 76156 to 76169 of the Journal of such date, tax increment allocation financing was adopted pursuant to the Act as a means of financing certain Area redevelopment project costs (as defined in the Act) incurred pursuant to the Plan; and

WHEREAS, Irving Park Property Holdings, LLC, an Illinois limited liability company (the "Developer"), intends to purchase a vacant two story bank building (with the common address of 4901 W. Irving Park Road,) an adjacent building (with the common address of 4925 W. Irving Park Road), a new construction site (with common address 4939 W. Irving Park Road) along with a parking lot behind the bank building, all within the Area in Chicago, Illinois (collectively the "Site") and undertake a redevelopment project at the Site which includes (i) redevelopment of the bank building into approximately 61,212 square feet of leased commercial space, (ii) redevelopment of an adjacent building into an approximately 5,123 square foot facility to be initially leased as a restaurant, and (iii) demolition of existing one-story building and construction of a new 3,900 square foot commercial building to be leased as a restaurant facility along with a parking lot behind the bank building that will provide approximately 173 parking spaces (the "Project").

WHEREAS, the Developer has proposed to undertake the redevelopment of the Site in accordance with the Plan and pursuant to the terms and conditions of a proposed redevelopment agreement to be executed by the Developer and the City, including but not limited to construction and build-out of space to accommodate industrial uses to be financed in part by incremental taxes on the Property and from the Area, if any, deposited in the Portage Park Project Area 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, the Community Development Commission of the City of Chicago (the "Commission"), pursuant to Resolution 15-CDC-34 adopted on December 8, 2015, recommended that the Developer be designated as the developer for the Project and that the City's Department of Planning and Development ("DPD") be authorized to negotiate, execute and deliver on behalf of the City a redevelopment agreement with the Developer for the Project; now therefore,

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

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

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

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

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

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

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

Attachment:
Exhibit A: Redevelopment Agreement

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IRVING PARK PROPERTY HOLDINGS, LLC
REDEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF CHICAGO AND

IRVING PARK PROPERTY HOLDINGS, LLC

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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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

IRVING PARK PROPERTY HOLDINGS,LLC
REDEVELOPMENT AGREEMENT

This Irving Park Property Holdings, LLC Redevelopment Agreement (this "Agreement") is made as of this day of , 2016, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("DPD"), and Irving Park Property Holdings, LLC an Illinois limited liability company (the "Developer"). 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 etseq. (the Mct@) the City Council of the City (the "City Council") adopted certain ordinances on September 9, 1998, approving a redevelopment plan for the Portage Park Tax Increment Financing Redevelopment Project Area (the AArea@), designating the Area as a Aredevelopment project area@ under the Act, and adopting tax increment allocation financing for the Area (collectively, the "TIF Ordinances"). The Area is legally described in Exhibit A hereto.

B. The Project: The Developer intends to undertake the redevelopment project described in Exhibit B hereto (the "Project"), which includes (i) redevelopment of a 2-story vacant bank building into approximately 61,212 square feet of leased commercial space, (ii) redevelopment of an adjacent building into an approximately 5,123 square foot facility to be initially leased as a restaurant, and (iii) demolition of existing one-story building and construction of a new 3,900 square foot commercial building to be leased as a restaurant facility along with a parking lot behind the bank building that will provide approximately 173 parking spaces. The Project will consist of improvements on property to be owned by the Developer, including a vacant bank building (with the common address of 4901 W. Irving Park Road,) the adjacent building (with the common address of 4925 W. Irving Park Road), the new construction site (with common address 4939 W. Irving Park Road) along with the parking lot, all in Chicago, Illinois and legally described on Exhibit C (the "Property"). Developer has entered into a real estate sales contract to purchase the Property from Irving Park Properties, LLC and Irving Park Properties II, LLC. 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 Portage Park Tax Increment Financing Redevelopment Project Area Tax Increment Financing Redevelopment Plan (the "Redevelopment Plan").

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C. City Financing: The City agrees to use Available Incremental Taxes to reimburse the Developer 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 the Developer.

"Annual Compliance Report" shall mean an annual signed report from the Developer due to the City on or before March 1 of each year during the Compliance and Monitoring Period (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 Occupancy and Operations/ Jobs 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 that Sustainability Requirements have been satisfied (Section 8.22); and (7) compliance with all other executory provisions of this Agreement.

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

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

"Arts Space" shall have the meaning as set forth in Exhibit B.

"Available Incremental Taxes" shall mean an amount equal to ninety five percent (95%) of the Incremental Taxes deposited in the TIF Fund attributable to the taxes levied on the Property, as adjusted to reflect the amount of the City Fee described in Section 4.07 hereof.

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"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(s)" shall mean the Initial Certificate of Completion or the Final Certificate of Completion as described in Section 7.01 hereof.

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

ACity 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 4.03 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.

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

"Compliance and Monitoring Period" shall mean that period beginning on the date of the issuance of the Initial Certificate until the tenth anniversary of such date.

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

"Employer(s)" shall have the meaning set forth in Paragraph F of Section 6.01 hereto.

"Employment Plan" shall have the meaning set forth in Section 5.11 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 (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.

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

"Full-Time Equivalent Employee" or "FTE" shall mean a permanent full-time position that require work hours totaling at least 35 hours per week, and that is based at the Property during the applicable month. FTE shall not include persons employed by Irving Park Property Holdings, LLC or third parties in positions ancillary to operations at the Property, including, without limitation, security guards, cleaning personnel, or similar persons.

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

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

"Incremental Taxes" shall mean such ad valorem taxes which, pursuant to the TIF Adoption Ordinance and Section 5/11 -74.4-8(b) of the Act, are allocated to and when collected are paid to the Treasurer of the City of Chicago for deposit by the Treasurer into the Portage Park Area 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 Property.

"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.

AMBEA/VBE BudgetQ shall mean the budget attached hereto as Exhibit D-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, the Property or the Project.

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

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

AProhibited Use@ shall mean 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 D-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 Plan or otherwise referenced in the Redevelopment Plan.

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AREimbursement Event@ shall mean an act or omission by the Developer 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; (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 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 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 to DPD pursuant to Section 4.05 of 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 Plan 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

"Title Policy" shall mean a title insurance policy in the most recently revised ALTA or equivalent form, showing Irving Park Property Holdings, LLC as the insured, noting (i) the recording of this Agreement as an encumbrance against the Property, and (ii) lender's consent and subordination agreement in favor of the City with respect to previously recorded liens against the Property related to Lender Financing, if any, issued by the Title Company.

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"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 will complete the Project no later than September 30, 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=s obligations under Section 5.02.

4 Survey Update. On the Completion Date, the Developer shall provide an updated Survey 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 in this Section 3.06, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to changes to the Project must be submitted by Developer to DPD concurrently with the progress reports described in Section 3.07 hereof; provided, that any Change Order relating to any of the following must be submitted by Developer to DPD for DPD's prior written approval: (a) changes in the Project scope that reduces the gross or net square footage of Project by five percent (5%) or more (either individually or cumulatively); (b) a change in the use of Project to a use other than as described in Recital B to this Agreement; (c) a delay in the completion of the Project by six (6) months or more; or (d) Change Orders resulting in an aggregate increase to the Project Budget for the Project of ten percent (10%) or more. Developer shall not authorize or permit the performance of any work relating to any Change Order or the furnishing of materials in connection therewith prior to the receipt by Developer of DPD's written approval (to the extent said City prior approval is required pursuant to the terms of this Agreement).

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3.07 Progress Reports and Survey Updates. Developer shall provide DPD with written quarterly progress reports detailing the status of the Project, including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring DPD's written approval pursuant to Section 3.06). In addition, Developer shall provide DPD with monthly reports regarding MBEA/VBE utilization and compliance with prevailing wage and the City's residency requirements. Any shortfall in compliance with the requirements listed in this Section 3.07 shall be included in the monthly reports to DPD.

SECTION 4. FINANCING

4.01 Total Project Cost and Sources of Funds. The cost of the Project is estimated to be \$14,106,174 which the Developer will initially fund from the following sources:

Sources Amount	
Equity \$5,287,161	
Lender Financing	\$9,819,013

ESTIMATED TOTAL \$14,106,174

Amount of City Funds(as defined below) \$2,000,000

Such sources of funds shall be used to pay all Project costs because no City Funds will be paid until the City's issuance of a Certificate, and then only on a Pay-as-you-go basis. Except for the City Funds, no other City financial assistance or incentives have been or will be provided for the Project.

2 Developer Funds. Equity and/or Lender Financing may be used to pay any Project cost, including but not limited to Redevelopment Project Costs and costs of TIF-Funded Improvements in connection with the Project.

3 City Funds, (a) Uses of City Funds. City Funds may only be used to pay directly or reimburse Developer for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs. Exhibit I sets forth, by line item, the TIF-Funded Improvements for the Project, and the maximum amount of costs that may be paid by or reimbursed from City Funds for each line item therein (subject to Sections 4.03(b) and 4.04),

contingent upon receipt by the City of documentation satisfactory in form and substance to DPD evidencing such cost and its eligibility as a Redevelopment Project Cost. In no event, however, shall City Funds be paid to the Developer in excess of (a) \$2,000,000 or (b) Fourteen and two tenths percent (14.2%) of the total Project costs, as set out in the final Project Budget.

(b) Payment of City Funds. The Project shall be completed prior to any payment of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03, Section 4.04 and Section 5 hereof, the City hereby agrees to provide City funds (the "City Funds") from Available Incremental Taxes to pay for or reimburse the Developer for the actual Project costs of the TIF-Funded Improvements upon the completion of the Project, in an amount not to exceed the Maximum Annual Payment amount, as stated below.

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(i) The City Funds shall be paid to the Developer in installments pursuant to the time frames set forth herein and in accordance with the terms and conditions of this Agreement, as follows:

Annual Payment

Payment #1 Payment #2

Payment #3 Payment #4 Payment #5

Timing

Issuance of Initial Certificate

1st anniversary of issuance of the Initial Certificate

2nd anniversary of issuance of the Initial Certificate

Issuance of the Final Certificate 1 st anniversary of issuance of Final Certificate

TOTAL CITY FUNDS:

Maximum Annual Payment

\$400,000 \$400,000

\$400,000

\$400,000 \$400,000 \$2,000,000

ii) The actual amount may vary depending on the final Total Project Cost and the amount of TIF-Funded Improvements incurred.

iii) The City's financial commitment to provide Available Incremental Taxes for such purposes is subject to the availability of sufficient Available Incremental Taxes.

iv) City Funds derived from Available Incremental Taxes and available to pay such costs and allocated for such purposes shall be paid in accordance with the terms of this Agreement only so long as no Event of Default or condition for which the giving of notice or the passage of time, or both, would constitute an Event of Default exists under this Agreement.

The Developer acknowledges and agrees that the City's obligation to pay installments of City Funds in an amount not to exceed the applicable Maximum Annual Payment Amount is contingent upon the fulfillment of the conditions set forth in (i) through (iv) above, as well as the prior issuance of a Initial Certificate or Final Certificate, and the Developer's satisfaction of all other applicable terms and conditions of this Agreement. In the event that such condition is not fulfilled, the amount of Equity and/or Lender Financing to be contributed by Developer pursuant to Section 4.01 hereof shall increase proportionately.

(c) Reduction of City Funds. Upon the occurrence of the following, without limitation, City Funds may be reduced:

- i) if the final Total Project Cost falls below \$14,106,174, the City Funds will be reduced by \$1.00 for every \$1.00. Such reduction shall be made from the Annual Payment #1 and, if necessary, successive annual payments;
- ii) by ten percent (10%) if the Sustainability Requirement is not achieved for the Project;
- iii) pursuant to Section 7.03 (Failure to Complete) or if there is a default under Section 8.05 (Occupancy and Operations Covenant / Jobs Covenant);

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(iv) if the Developer fails to meet the City Construction Compliance Requirements (MBE/WBE, prevailing wage and city residency) as defined in Section 6.01.

4.04. Conditions for Payment of City Funds. No City Funds shall be paid to the Developer unless all of the following conditions have been met:

- a) Issuance of the applicable Certificates.
- b) The Developer shall have a lease and shall cause to be operating an approximately 24,481 square foot Binny's, approximately 3,900 square foot Culvers, shall operate a minimum of 11,764 square feet of Arts Space as described in this Agreement.
- c) When the Developer submits documentation to the City in connection with a request for the payment of the City Funds as described in Section 4.03(b), beginning on the first request for payment and continuing until the earlier of (i) the end of the Term of the Agreement or (ii) the date that the Developer has been reimbursed in full under this Agreement, the Developer shall provide DPD with a Requisition Form, along with the documentation described therein.

5 Requisition Form. On the Completion Date and sixty days prior to the payment date (or such other date as the parties may agree to) thereafter and continuing throughout the Term of the Agreement, the Developer 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 shall meet with DPD to discuss any Requisition Form(s).

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

7 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.

8 Cost Overruns. The Developer 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.

9 Conditional Grant. The City Funds being provided hereunder are being granted on a conditional basis, subject to the Developer's compliance with the provisions of this Agreement. The payment of City Funds is subject to being terminated and/or reimbursed as provided in Section 12.

SECTION 5. CONDITIONS PRECEDENT

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

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

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2 Other Governmental Approvals. The Developer 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.

3 Financing. The Developer must have furnished proof reasonably acceptable to the City that it has Equity and/or Lender Financing to complete the Project. Any liens against the Property in existence at the Closing Date 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 to be recorded, at the expense of the Developer, with the Records Office of Cook County.

4 Title Policy. The Developer must have furnished the City with a copy of the Title Policy for the Property, certified by the Title Company, showing the Developer as the named insured, along with copies of all Schedule B title exception documents. The Title Policy 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 Policy 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 (3.1 with parking), contiguity, location, access and survey. The Developer has 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, at its own expense, must have provided the City with the searches under the following name, Irving Park Property Holdings, LLC. 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 the Developer, the Property, or any fixtures now or hereafter affixed thereto, except for the Permitted Liens.

6 Intentionally omitted.

7 Insurance. The Developer, at its own expense, must have insured the Property in accordance with Exhibit L hereto, and delivered to DPD actual policies

8 Opinion of the Developer's Counsel. On the Closing Date, the Developer 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.

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

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

11 Documentation; Employment Plan. The Developer has provided documentation to DPD, satisfactory in form and substance to DPD, with respect to current employment matters in connection with the construction or rehabilitation work on the Project, including the reports described in Section 3.07. At least thirty (30) days prior to the Closing Date, the Developer has met with the Workforce Solutions division of DPD to review employment opportunities with the Developer after construction or rehabilitation work on the Project is completed. On or before the Closing Date, Developer has provided to DPD, and DPD has approved, the Employment Plan for the Project (the "Employment Plan"). The Employment Plan includes, without limitation, the Developer's estimates of future job openings, titles, position descriptions, qualifications, recruiting, training, placement and such other information as DPD has requested relating to the Project.

12 Environmental. The Developer 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 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 must also have provided the City with an Economic Disclosure Statement dated as of the Closing Date.

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

SECTION 6. AGREEMENTS WITH CONTRACTORS

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

6.01 Construction Requirements

A. Construction Contract. Upon DPD=s request, the Developer 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.

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B. Performance and Payment Bonds. Prior to the commencement of any portion of the Project which includes work on the public way, the Developer 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.

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

D. Prevailing Wage. The Developer, 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 shall provide the City with copies of all such contracts entered into by the Developer or the General Contractor to evidence compliance with this Paragraph D.

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

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.

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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 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, 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 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, 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.

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

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

Good faith efforts on the part of the Developer, the General Contractor and each subcontractor to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Chief Procurement Officer) shall not suffice to replace the actual, verified achievement of the requirements of this 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 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 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, the General Contractor and/or the subcontractors to prosecution. Any retainage to cover contract performance that may become due to the Developer pursuant to Section 2-92-250 of the Municipal Code of Chicago may be withheld by the City pending the Chief Procurement Officer's determination as to whether the Developer must surrender damages as provided in this paragraph.

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

The Developer 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's MBEAA/BE Commitment.

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

Project:

(1) Consistent with the findings, which support the Minority-Owned and Women-Owned Business Enterprise Procurement Program (the "MBEA/VBE" Program"), Section 2-92-420 et seq., Municipal Code of Chicago, and in reliance upon the provisions of the MBEAA/BE 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 MBEA/VBE Budget attached hereto as Exhibit D-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 (and any party to whom a contract is let by the Developer in connection with the Project) shall be deemed a "contractor" and this Agreement (and any contract let by the Developer in connection with the Project) shall be deemed a "contract" 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's MBEA/VBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by the Developer), or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of (i) the MBE or WBE participation in such joint venture or (ii) the amount of any actual work performed on the Project by the MBE or WBE), by the Developer utilizing a MBE or a WBE as 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's MBEAA/BE commitment as described in this Paragraph G. The Developer 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 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 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's compliance with this MBEAA/BE commitment. DPD has access to the Developer's 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's 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 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's 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, the General Contractor and all major subcontractors shall be required to meet with the monitoring staff of DPD with regard to the Developer's compliance with its obligations under this Paragraph G. During this meeting, the Developer 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 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 is not complying with its obligations hereunder shall, upon the delivery of written notice to the Developer, be deemed an Event of Default hereunder.

H. Books and Records. The Developer, 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's 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's 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 Section 6.01 and the insurance requirements in Exhibit L. The general contract shall also incorporate in such rider Paragraphs F and G of this Section 6.01.

SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION

7.01 Certificate(s) 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 an Initial Certificate or Final Certificate, respectively, in recordable form certifying that the Developer has fulfilled its 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 Initial Certificate or Final Certificate. DPD may require a single inspection by an inspecting architect hired at the Developer's expense to confirm the completion of the Project. DPD shall respond to Developer's written request for an Initial Certificate or Final Certificate within forty-five (45) days by issuing either an Initial Certificate or Final

Certificate, respectively, or a written statement detailing the ways in which the Project does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by Developer in order to obtain either Certificate. Developer may resubmit a written request for a Initial Certificate or Final

Certificate upon completion of such measures.

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

- Completion of the Project;
- Evidence acceptable to DPD that the Total Project Cost is equal to, or in excess of, \$14,106,174. As described in Section 4.03(c), the City Funds will be reduced on a dollar for dollar basis if the Total Project Cost is less than \$14,106,174;
- Receipt of a Certificate of Occupancy or other evidence acceptable to DPD that the developer has complied with building permit requirements for Project;
- The Developer shall have initially signed leases for 65% of the Property and this shall not include the square footage of the Common Area, the not for profit art center, and movie theater, as described herein;
- Evidence acceptable to DPD that the Project met or exceeded MBEAA/BE, Prevailing Wage, and City Residency requirements; Developer has received a letter from DPD's Compliance and Monitoring division stating that the Developer is in complete compliance with all City Requirements (MBEAA/BE, City Residency, and Prevailing Wage), as provided in herein;
- Evidence that the Developer has incurred TIF-eligible costs in an equal amount to, or greater then, the total maximum amount of City Funds for the Project (up to \$2,000,000); and
- The Developer shall provide evidence acceptable to the City that the Developer has met the Sustainability Requirement for the Project. The Sustainability Requirement consists of a stamped letter from a licensed design professional and a completed LEED checklist stating that the work completed has met the LEED credit items defined in this Agreement.

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

- Issuance of the Initial Certificate; and
- The Developer shall lease or make best efforts to lease 11,764 square feet of Arts Space solely to arts and complementary uses businesses for twenty-four (24) months after the issuance of the Initial Certificate at no more than \$1 per square foot for the theater space and \$3 per square foot for the art center and has provided evidence satisfactory to the City that the Developer made best efforts to lease the Arts Space accordingly.

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 the 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 Compliance and Monitoring Period, 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 (l) 8.02, 8.05 and 8.14 as covenants that run with the land will bind any transferee of the Property (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 or a permitted assignee under Section 15.15 of this Agreement.

3 Failure to Complete. If the Developer fails to 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 Developer. 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 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, at the Developer's written request, with a written notice in recordable form stating that the Term of the Agreement has expired.

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

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

a) the Developer as defined for the purposes of this Agreement, is Irving Park Property Holdings LLC, and is duly organized, validly existing, qualified to do business in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

b) the Developer has 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 (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

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(including each of them, respectively) is now a party or by which the Developer (including each of them, respectively) is now or may become bound;

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

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

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

h) the Developer is not in default with respect to any agreement or instrument related to the borrowing of money to which the Developer (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, and there has been no material adverse change in the assets, liabilities, results of operations or financial condition of the Developer since the date of the Developer's most recent Financial Statements;

(j) the Developer (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's financial condition;

(k) Developer has not made or caused to be made, directly or indirectly, any payment, gratuity or offer of employment in connection with the Agreement or any contract paid from the City treasury or pursuant to City ordinance, for services to any City agency ("City Contract") as an inducement for the City to enter into the Agreement or any City Contract with the Developer 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 nor any affiliate of the Developer is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their

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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 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

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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.

"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.

8.02 Covenant to Redevelop. The Developer shall redevelop the Space 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

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shall run with the land but shall be deemed satisfied and shall terminate when the City issues its Certificate for recording in the Records Office of Cook County.

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

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

5 Occupancy and Operations Covenant / Jobs Covenant.

a) The Developer shall continuously lease and cause to be operated a minimum of 24,481 square foot Binny's, an approximately 3,900 square foot Culvers, an approximately 6,000 square foot area that is

intended to be a film theater, and an approximately 5,764 square foot area intended to be an art center, the combined space for arts and complementary uses will be 11,764 square feet, hereinafter the "Arts Space". The Developer shall lease or make best efforts to lease the Arts Space solely to arts and complementary uses businesses for twenty-four (24) months after the issuance of the Initial Certificate at no more than \$1 per square foot for the theater space and \$3 per square foot for the art center. Thereafter, upon the City being satisfied that the Developer made best efforts to lease the Arts Space accordingly, the Arts Space will be maintained as space leased at no more than \$1 per square foot for the space currently designated for the theater and \$3 per square foot for the space currently designated to be the art center. The Developer shall have signed leases for 65% of the Property and this requirement shall not include the square footage of the common area and the Arts Space, as described in this Agreement. If the Developer fails to satisfy these requirements, the City shall have the right to halt payment or seek reimbursement of City Funds made to the Developer and to terminate this Agreement. The Occupancy and Operations Covenant shall apply throughout the Compliance & Monitoring Period. Developer will be allowed one, one year cure period for a default under this Section 8.05.

b) Developer shall make a best effort to create and maintain a minimum of 130 FTE jobs throughout the Compliance & Monitoring Period.

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

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

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

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

10 Insurance. The Developer shall provide and maintain during the Term of the 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 agrees to pay or cause to be paid when due any Non-Governmental Charges. The Developer 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 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 Records Office of Cook County. If the Permitted Liens include any existing mortgages, such mortgagee must execute a subordination agreement in the form of Exhibit J.

14 Real Estate Provisions; Governmental Charges. Subject to the next paragraph, the Developer will pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon the Developer, the Space 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 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.

Neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer shall, during the Term of this Agreement, directly or indirectly,

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initiate, seek or apply for proceedings in order to lower the assessed value of all or any portion of the Property or the Project below the amount of the Minimum Assessed Value as described in Exhibit M.

15 Lease. Developer shall submit to the City all leases for the Project for approval prior to closing.

16 Survival of Covenants. All warranties, representations, covenants and agreements of the Developer contained in this Section 8 and elsewhere in this Agreement shall be true, accurate and complete at the time of the Developer's 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 Compliance and Monitoring Period, 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 2016, then the first Annual Compliance Report will be due no later than March 1, 2017.

18 Job Readiness Program. The Developer and the General Contractor shall undertake a job readiness program, to work with the City, through the Workforce Solutions (DPD Workforce Division), to participate in job training programs to provide job applicants for the jobs created by the Project and the operation of the Developer's business on the Property. Developer and General Contractor shall meet with DPD prior to the Closing Date to discuss the Project.

8.19 Inspector General. It is the duty of Developer and the duty of any bidder, proposer, contractor, subcontractor, and every applicant for certification of eligibility for a City contract or

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

8.20. FOIA and Local Records Act Compliance.

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

b) Exempt Information. Documents that the Developer submits to the City under Section 8.17, (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

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result in competitive harm. However, for documents submitted by the Developer to be treated as a trade secret or information that would cause competitive harm, FOIA requires that Developer mark ' any such documents as "proprietary, privileged or confidential." If the Developer marks a document as "proprietary, privileged and confidential", then DPD will evaluate whether such document may be withheld under the FOIA. DPD, in its discretion, will determine whether a document will be exempted from disclosure, and that determination is subject to review by the Illinois Attorney General's Office and/or the courts.

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

8.21 Shakman Accord

a) The Developer 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 16, 2014 the "City of Chicago Hiring Plan" (the "2014 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 2014 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 is aware that City policy prohibits City employees from directing any individual to apply for a position with Developer, either as an employee or as a subcontractor, and from directing Developer to hire an individual as an employee or as a subcontractor. Accordingly, Developer must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel

provided by Developer under this Agreement are employees or subcontractors of Developer, not employees of the City of Chicago. This Agreement is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by Developer.

d) Developer 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 by a City employee or City official in violation of paragraph (c) above, or advocating a violation of paragraph (d) above, Developer will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the

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City's Office of the Inspector General ("IGO Hiring Oversight"), and also to the head of the Department. Developer will also cooperate with any inquiries by IGO Hiring Oversight or the Shakman Monitor's Office related to this Agreement.

22 Sustainability Requirement. Prior to the issuance of a Certificate, the Developer shall provide evidence acceptable to the City that the Developer has met the Sustainability Requirement for the Project. The Sustainability Requirement consists of a stamped letter from a licensed design professional and a completed LEED checklist indicating that the work completed has met the LEED credit items.

23 Recapture of TIF Assistance.

a) If the sale, transfer or refinance of the Project (each happening being a "Capital Event") occurs on or before the fifth year anniversary of the issuance of the Initial Certificate, the Developer agrees to pay and remit to the City on the closing date of such sale or transfer an amount equal to the greater of ten (10%) of the sales proceeds, as calculated as the total sales price minus \$14,106,174 based on the final executed settlement statement prepared in connection with such sale or other transfer, or the total amount of City funds paid to Developer as of the closing date of such transaction.

b) If a Capital Event occurs after the fifth year anniversary of the issuance of the Initial Certificate and prior to the tenth anniversary of the issuance of said Certificate, the Developer agrees to pay and remit to the City on the closing date of such Capital Event, an amount equal to fifty percent (50%) of the sum of the Sales Price less \$14,106,174, less \$2,115,926 as calculated using final executed settlement statement prepared in connection with such sale or other transfer.

c) Any TIF Recapture Amount received by the City shall be deposited into a separate account within the TIF Fund and shall be used for Redevelopment Project Costs.

d) Any TIF Recapture Amount due and owing to the City pursuant to Section 8.23(a) or Section 8.23(b) due to the occurrence of a Capital Event shall be paid by the Developer on the closing date of such Capital Event.

e) This Section 8.23 shall be in effect until a Capital Event in which Developer is no longer in control of the entire Project. With respect to Capital Event of less than the entire Project, such successor shall not have any obligations or liabilities under this Section 8.23 provided the Developer shall continue to have obligations under this Section 8.23 with respect to the portion of the Project that was not subject to the Capital Event.

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

SECTION 9. ENVIRONMENTAL MATTERS

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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

The Developer agrees to indemnify, pay, defend and hold the City, and its elected and appointed officials, employees, agents and affiliates (individually an "Indemnitee," and collectively the Alndemnitees@) 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 Indemnities 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 Indemnities 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 shall (a) comply with the requirements of Paragraph H of Section 6.01 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=s 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 the Developer hereunder:

- (a) the failure of the Developer to comply with any covenant or obligation, or the breach by the Developer 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 the Developer; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;

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

d) the entry of any judgment or order against the Developer or the Property which 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 the Developer or the death of any natural person who owns a 50% or more ownership interest in the Developer, unless, in the case of a death, the Developer establishes to the DPD=s satisfaction that such death shall not impair the Developer=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 the Developer or any natural person who owns 5% or more ownership interest in the Developer, which is not dismissed within thirty (30) days, or the indictment of the Developer or any natural person who owns such a material interest in the Developer, 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; or

- (h) failure to comply with the sustainability requirements for the Project as stated in Section 8.22 by which the City shall have the right to reduce the amount of City Funds by an amount equal to 10% of City Funds.

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 unless the Event of Default involves a Reimbursement Event.

3 Curative Period. In the event the Developer fails to perform any covenant or obligation or breaches any representation or warranty which the Developer is required to perform under this Agreement, an Event of Default shall not be deemed to have occurred unless the Developer has failed to cure such default

within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, the Developer shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured. No such cure period, however, shall apply to Events of Default described in Section 12(b), (c), (d), (e) or (f), which defaults shall have the cure periods, described therein, if any. Notwithstanding anything, to the contrary in this section, a single one year cure period shall apply to default arising from a breach of the jobs and

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operations covenants in Section 8.05. There shall be no cure period for default arising from Developer's failure to comply with the Annual Compliance Report covenant in Section 8.17 and such breaches shall be an immediate Event of Default.

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

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.

City of Chicago

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

City of Chicago Department of Law

Finance and Economic Development Division 121 North LaSalle Street, Room 600 Chicago, IL 60602

Irving Park Property Holdings LLC and 5519 N. Cumberland Avenue, Suite 1008 Chicago, Illinois 60656
Attention: Mr. Charles H. Cui

With Copies To:

Chicago, Illinois 606

Attn:

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 Amateriale 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 at the Property, or increases the City Funds payable to the Developer.

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 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 from the City or any successor in interest or on any obligation under the terms of this Agreement.

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

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

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.

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8 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.

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 may not sell, assign or otherwise transfer its 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's obligations under this Agreement. The foregoing limitation shall not prevent the Developer from collaterally assigning to a lender that is also providing financing for the Project the Developer's right to receive the payment of City Funds as security for such lender financing. The Developer consents 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, the City and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of the Developer, the City and their respective successors and permitted assigns (as provided herein). Except as otherwise provided herein, this Agreement shall not run to the benefit of, or be enforceable by, any person or entity other than a party to this Agreement and its successors and permitted assigns. This Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right.

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17 Force Majeure. Neither the City nor the Developer nor any successor in interest to either of them shall be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below

freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder. The individual or entity relying on this section with respect to any such delay shall, upon the occurrence of the event causing such delay, immediately give written notice to the other parties to this Agreement. The individual or entity relying on this section with respect to any such delay may rely on this section only to the extent of the actual number of days of delay 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 is required to provide notice under the WARN Act, the Developer shall, in addition to the notice required under the WARN Act, provide at the same time a copy of the WARN Act notice to the Governor of the State, the Speaker and Minority Leader of the House of Representatives of the State, the President and minority Leader of the Senate of State, and the Mayor of each municipality where the Developer has locations in the State. Failure by the Developer to provide such notice as described above may result in the termination of all or a part of the payment or reimbursement obligations of the City set forth herein.

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

15.22 Business Relationships. The Developer acknowledges (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (B) that Developer has read such provision and understands that pursuant to such Section 2-156-030 (b), it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected City official or employee has a ABusiness Relationships (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 ABusiness Relationships (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

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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 hereby represents and warrants that, to the best of its knowledge after due inquiry, no violation of Section 2-156-030 (b) has occurred with respect to this Agreement or the transactions contemplated hereby.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

[SIGNATURE BLOCKS APPEAR ON THE FOLLOWING

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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.

IRVING PARK PROPERTY HOLDINGS, LLC
an Illinois limited liability company

By: _____, its Managing Member
Charles H. Cui

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

David L. Reifman Commissioner

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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 _____, personally known to me to
be the Member of Irving Park Property Holdings, 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

My Commission Expires.

(SEAL)

EXHIBIT A

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

EXHIBIT B

Description of the Project

The proposed redevelopment project is to renovate the vacant bank building and the adjacent building into approximately 67,430 square feet of retail, commercial and office space. The bank building will have approximately 61,212 square feet of leased space. The major tenant, Binnys, will occupy the entire first floor, a fitness user will initially occupy the entire lower level and a portion of the second floor, and a movie theater, art center, and complementary businesses are intended to occupy the second floor. The developer will build out the arts and complementary business space and deliver a plain vanilla shell suitable for such use. The second floor will also initially have other office tenants.

The Developer shall continuously lease and cause to be operated a minimum of 24,481 square foot Binny's, an approximately 3,900 square foot Culvers, an approximately 6,000 square foot area that is intended to be a film theater, and an approximately 5,764 square foot area intended to be an art center, the combined space for arts and complementary uses will be 11,764 square feet, hereinafter (the "Arts Space").

The adjacent building will be an approximately 5,123 square foot restaurant initially leased to Elly's Pancake House. An existing parking lot behind these buildings will provide approximately 173 parking spaces. The developer will demolish the one-story building at 4939 West Irving Park Road and replace it with a new approximately 3,900 square foot commercial building that will be leased to Culver's. The two renovated buildings, the parking lot, and the new commercial building together constitute the "Project".

EXHIBIT C

Legal Description of Property (SUBJECT TO FINAL SURVEY AND

TITLE COMMITMENT)

PARCEL 1:

LOTS 45, 46, 47, 48 AND THE EAST 7 VI FEET OF LOT 49 IN GRAYLAND PARK ADDITION TO CHICAGO, BEING A SUBDIVISION OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Real Estate Index Numbers: 13-21-202-005-000 Vol. 347
13-21-202-006-000 Vol. 347 13-21 -202-
007-000 Vol. 347 13-21-202-041-000 Vol.
347 13-21-202-042-000 Vol. 347 13-21-
202-048-000 Vol. 347

Address: 4939 West Irving Park Road, Chicago, Illinois

PARCEL 2:

LOTS 30 TO 38, BOTH INCLUSIVE, AND LOTS 149 TO 171, BOTH INCLUSIVE, IN GRAYLAND PARK ADDITION TO CHICAGO, BEING A SUBDIVISION OF THE NORTH V4 OF THE NORTHEAST ¼ OF SECTION 21, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL, MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Real Estate Index Numbers: 13-21-202-050-000 Vol. 347 (Parcel 2)

Address: 4901 West Irving Park Road, Chicago, Illinois

PARCEL 3:

LOTS 39 AND 40 IN GRAYLAND PARK ADDITION TO CHICAGO, BEING A SUBDIVISION OF THE NORTH ½ OF THE NORTHEAST ¼ OF SECTION 21, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL, MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Real Estate Index Numbers: 13-21-202-012-0000 & 13-21-202-013-0000 Address: 4925

West Irving Park Road, Chicago, IL

EXHIBIT D-1

Project Budget

Acquisition	\$5,859,794
Hazardous Material Removal	\$70,000
Demolition	\$50,000
Site Prep	\$1,376,000

HARD COSTS

Concrete	\$85,020
Masonry Repair	\$170,040
Carpentry	\$255,955
Steel/metals	\$102,024
Signage	\$13,424
Hollow Metal and Finish	""""
Hardware	
Drywall	\$241,636
Ceiling	\$61,751
Cabinetry and Millwork	\$8,949

Fireproofing	\$17,899
Roofing	\$429,575
New Windows	\$205,838
Storefront	\$313,232
Overhead Doors	\$13,424
Special Door Automatics	\$25,953
Floor prep and tile	\$51,907
Hard tile	\$42,063
Carpet	\$61,751
Toilet partitions and accessories	\$40,273
Painting	\$101,129
Fence	\$22,374
Elevators	\$340,080
Electric	\$402,727
Plumbing	\$259,535
HVAC	\$407,201
Sprinklers	\$259,535
Fire alarm systems	\$42,063
Caulking	\$13,424
Awnings	\$40,273

TOTAL HARD COSTS:\$4,060,378

SOFT COSTS

Architecture & Engineering	\$97,000
Project Management	\$75,000

General Contractor	\$310,000
Developer Fee	\$770,000
Appraisal	\$15,000
Market Study	\$5,000
Legal Fees	\$150,000
Title & Closing	\$158,000
Survey	\$10,000
Building Permits	\$50,000
Insurance	\$30,000
Loan Fees & Lender Inspection	\$170,000
Leasing Commission	\$500,000
Soil Testing	\$30,000
Environmental Testing	\$10,000
Marketing	\$10,000
<u>RE Taxes, Construction</u>	<u>\$300,000</u>

TOTAL SOFT COSTS: \$2,690,000

TOTAL COST: \$14,106,172

EXHIBIT D-2

MBE/WBE Project Budget

Hazardous Material Removal	\$70,000
Demolition	\$50,000
Site Prep	\$1,376,000

HARD COSTS

Concrete	\$85,020	
Masonry Repair	\$170,040	
Carpentry	\$255,955	
Steel/metals	\$102,024	
Signage	\$13,424	
Hollow Metal and Finish		
Hardware	\$31,323	
Drywall	\$241,636	
Ceiling	\$61,751	
Cabinetry and Millwork	\$8,949	
Fireproofing	\$17,899	
Roofing	\$429,575	
New Windows	\$205,838	
Storefront	\$313,232	
Overhead Doors	\$13,424	
Special Door Automatics	\$25,953	
Floor prep and tile	\$51,907	
Hard tile	\$42,063	
Carpet	\$61,751	
Toilet partitions and		
accessories	\$40,273	
Painting	\$101,129	
Fence	\$22,374	
Elevators	\$340,080	
Electric	\$402,727	
Plumbing	\$259,535	
HVAC	\$407,201	
Sprinklers	\$259,535	
Fire alarm systems	\$42,063	
Caulking	\$13,424	
<u>Awnings</u>	<u>\$40,273</u>	
TOTAL HARD COSTS:		\$4,060,378

SOFT COSTS

Architecture & Engineering	\$97,000	
Project Management	\$75,000	
General Contractor	\$310,000	
RE Taxes, Construction		
TOTAL SOFT COSTS:		\$482,000

TOTAL M/WBE BUDGET:

\$6,038,378

MBE Requirement, 24% Total: \$1,449,211 WBE Requirement, 4% Total: \$241,535

EXHIBIT E Intentionally Omitted

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 or the Project, other than liens against 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.

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, Charles H. Cui, Managing Member of Irving Park Property Holdings, LLC, an Illinois limited liability company, (the "Developer"), hereby certifies that with respect to that certain Irving Park Property Holdings, LLC Redevelopment Agreement between the Developer and the City of Chicago dated , 201 (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. The Developer requests reimbursement for the following cost of TIF-Funded Improvements:

\$ _____

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

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

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

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

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

4. The Developer has 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=s TIF application and/or the Redevelopment Agreement.

The financial statements for the Developer=s 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.

IRVING PARK PROPERTY HOLDINGS, LLC, an Illinois limited liability company

By
Charles H. Cui, its Managing Member

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

Property assembly & site prep

\$482,000 \$7,194,430

Rehabilitation, reconstruction, repair, remodel of existing
public or private buildings, fixtures, leasehold improvements, ^ 610 378
including Green costs

Financing costs including interest costs during construction & for 36 months after project
completion & for reasonable

reserves \$170,000 TOTAL TIF-FUNDED IMPROVEMENTS: \$10,456,808

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

EXHIBIT J 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, Irving Park Property Holdings, LLC, and Illinois limited liability company, (the "Developer") intends to undertake the redevelopment project (the "Project"), which includes redevelopment of (i) a two story vacant bank building having a total of approximately 61,212 square feet of usable space located in the Area and commonly known as 4901 W. Irving Park Road, (ii) a one story adjacent building having a total of approximately 5,123 square feet of usable space located in the Area and commonly known as 4925 W. Irving Park Road, and (iii) a new commercial building having approximately 3,900 square feet of usable space located in the Area and commonly known as 4939 W. Irving Park Road, and legally described on Exhibit A herein (the "Property") into several commercial businesses, movie theater, and art center with approximately 173 parking spaces. 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 Portage Park Increment Financing Redevelopment Project Area

WHEREAS, [INSERT BANK NAME] (ALender@) 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 (l), 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 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:

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

2. Notice of Default. The Lender shall use reasonable efforts to give to the City, and the City shall use reasonable efforts to give to the Lender, (a) copies of any notices of default which it may give to 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

Irving Park Property Holdings, LLC, an Illinois limited liability company

Charles H. Cui, its Managing Member
STATE OF ILLINOIS)
COUNTY OF COOK)SS

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

GIVEN under my hand and notarial seal this day of ,

Notary Public

My Commission Expires:

(SEAL)
STATE OF ILLINOIS)
COUNTY OF COOK)SS

I, _____, a notary public in and for the said County, in the State of _____, personally known to me to be the _____ of [Lender], a _____, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered said instrument, pursuant to the authority given to him/her by Lender, as his/her free and voluntary act and as the free and voluntary act of the Lender, for the uses and purposes therein set forth.

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

Notary Public

My Commission Expires: (SEAL)

EXHIBIT A - LEGAL DESCRIPTION

(SUBJECT TO FINAL SURVEY AND TITLE COMMITMENT)

PARCEL 1:

LOTS 45, 46, 47, 48 AND THE EAST 7 Vi FEET OF LOT 49 IN GRAYLAND PARK ADDITION TO CHICAGO, BEING A SUBDIVISION OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Real Estate Index Numbers:	13-21-202-005-000	Vol. 347	
	13-21-202-006-000	Vol.	347
	13-21-202-007-000	Vol.	347
	13-21-202-041-000	Vol.	347
	13-21-202-042-000	Vol.	347
	13-21-202-048-000	Vol.	347

Address: 4939 West Irving Park Road, Chicago, Illinois

PARCEL 2:

LOTS 30 TO 38, BOTH INCLUSIVE, AND LOTS 149 TO 171, BOTH INCLUSIVE, IN GRAYLAND PARK ADDITION TO CHICAGO, BEING A SUBDIVISION OF THE NORTH Vi OF THE NORTHEAST V₄ OF SECTION 21, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL, MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Real Estate Index Numbers: 13-21-202-050-000 Vol. 347 (Parcel 2)

Address: 4901 West Irving Park Road, Chicago, Illinois

PARCEL 3:

LOTS 39 AND 40 IN GRAYLAND PARK ADDITION TO CHICAGO, BEING A SUBDIVISION OF THE NORTH Vi OF THE NORTHEAST % OF SECTION 21, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL, MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Real Estate Index Numbers: 13-21-202-012-0000 & 13-21-202-013-0000

Address: 4925 West Irving Park Road, Chicago, IL

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 Irving Park Property Holdings, LLC, an Illinois limited liability company (the "Developer"), in connection with the purchase of certain, land and the construction of certain facilities thereon located in the Portage Park Increment Financing 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) Irving Park Property Holdings, 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. Exhibit A 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 Exhibit A, there are no warrants, options, rights or commitments of purchase, conversion, call or exchange or other rights or restrictions with respect to any 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 must provide and maintain at Developer's 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 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.

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.

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.

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.

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.

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 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 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 must not be deemed to be a waiver by the City. The Developer must advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance must not relieve the Developer of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance

conditions may constitute a violation of the Agreement, and the City retains the right to stop work until proper evidence of insurance is provided, or the Agreement may be terminated.

The Developer 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.

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

The coverages and limits furnished by the Developer must in no way limit the Developer's 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 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 is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

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

If Developer, 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.

EXHIBIT M Minimum Assessed Value

<u>Tax Year</u>	<u>Minimum Assessed Value</u>
2016	\$1,414,997
2017	\$3,197,619
2018	\$3,197,619
2019	\$3,443,486
2020	\$3,443,486
2021	\$3,443,486
2022	\$3,708,258
2023	\$3,708,258
2024	\$3,708,258
2025	\$3,993,388

OFFICE OF THE MAYOR

CITY OF CHICAGO

RAHM EMANUEL
MAYOR

February 10, 2016

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 ordinance authorizing the execution of a redevelopment agreement for Irving Park Property Holdings, LLC.

Your favorable consideration of this ordinance will be appreciated.

Mayor

Very truly yours,

CHICAGO March 16, 2016 To the

**President and Members of the City Council: Your Committee on Finance having had under
consideration**

A communication recommending a proposed ordinance concerning the author to enter into and execute a Redevelopment Agreement with Irving Park Property Holdings LLC.

02016-659

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 (a(viva voce voteO
of members of the committee with dissenting vote(s)7
(signed

Respectfully submitted
Chairman