



Office of the City Clerk

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

Legislation Text

File #: O2015-7822, **Version:** 1

ORDINANCE

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

WHEREAS, pursuant to an ordinance adopted by the City Council of the City (the "City Council") on November 17, 1999 and published at pages 19866 through, 19926 in the Journal of the Proceedings of the City Council (the "Journal") of such date, a certain redevelopment plan and project ("Plan") for the Halsted/Vincennes Redevelopment Project Area ("Area"), was approved and the Area was designated as a redevelopment project area; and

WHEREAS, the City is the owner of the parcel of land commonly known as 650 West 83rd Street, Chicago, Illinois, which is located in the Area and legally described on Exhibit A attached hereto (the "Property"); and

WHEREAS, Green Era Educational NFP, an Illinois not-for-profit corporation (the "Developer"), has submitted a proposal to the Department of Planning and Development (the "Department") to purchase the Property, which has an appraised fair market value of One Million Four Hundred Thousand and No/100 Dollars (1,400,000.00), for One and No/100 Dollars (\$1.00); and

WHEREAS, the Developer intends to erect an anaerobic digester facility on the Property (the "Project"); and

WHEREAS, by Resolution No. 15-CDC-24 adopted on August 11, 2015, the Community Development Commission ("Commission") authorized the Department to advertise its intent to sell the Property to the Developer and request alternative proposals for the sale and redevelopment of the Property; and

WHEREAS, by Resolution No. 15-075-21, adopted by the Plan Commission of the City of Chicago (the "Plan Commission") on August 20, 2015, the Plan Commission recommended the sale of the Property; and

WHEREAS, public notices advertising the proposed sale and requesting alternative proposals appeared in the Chicago Sun-Times, a newspaper of general circulation, on August 14, August 21, and August 28, 2015; and

WHEREAS, no alternative proposals were received by the deadline set forth in the aforesaid public notices; now therefore,

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

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

SECTION 2. The sale of the Property to the Developer in the amount of One and No/Dollars (\$1.00) is hereby approved. This approval is expressly conditioned upon the City entering into a redevelopment agreement with the Developer substantially in the form attached hereto as Exhibit B and made a part hereof (the "Redevelopment: Agreement"). The Commissioner of the Department ("Commissioner") or a designee of the Commissioner is each hereby authorized, with the approval of the City's Corporation Counsel as to form and legality, to negotiate, execute and deliver the Redevelopment Agreement, and such other supporting documents as may be necessary or appropriate to carry out and comply with the provisions of the Redevelopment Agreement, with such changes, deletions and insertions as shall be approved by the persons executing the Redevelopment Agreement.

SECTION 3. The Mayor or his proxy is authorized to execute, and the City Clerk or Deputy City Clerk is authorized to attest, a quitclaim deed conveying the Property to the Developer, or to a land trust of which the Developer is the sole beneficiary, or to an entity of which the Developer is the sole owner and the controlling party, subject to those covenants, conditions and restrictions set forth in the Redevelopment Agreement. i

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

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

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

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY (Subject to Title Commitment and Final Survey)

PARCEL 1:

THE SOUTH 264 FEET OF LOT 'A' AS MEASURED ON THE EAST LINE OF SAID LOT 'A' AND LOT 'B' OF SUTHERLAND'S SUBDIVISION OF LOT 4 IN ASSESSOR'S DIVISION OF THE WEST 1/4 OF SECTION 33 AND THAT PART OF THE SOUTH EAST 1/4 OF SECTION 32 LYING EAST OF THE CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD, ALL IN TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 2:

LOT 1 IN BIRKHOFF'S ADDITION TO AUBURN PARK, BEING A SUBDIVISION OF PART OF THE NORTHWEST 1/4 AND PART OF THE SOUTHWEST 1/4 OF SECTION 32, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PINS:

20-33-119-024-0000

20-33-124-

001-0000 20-33-124-002-0000

Commonly known as: 650 West 83^r Street, Chicago, Illinois

EXHIBIT B

REDEVELOPMENT AGREEMENT [Attached]

This Document Prepared by and After
Recording Return To:

Elizabeth Whitaker City of Chicago
Department of Law Real Estate Division
121 North LaSalle Street Room 600
Chicago, Illinois 60602 (312) 744-
0200

AGREEMENT FOR THE SALE AND REDEVELOPMENT OF LAND

(The Above Space For Recorder's Use Only)

This AGREEMENT FOR THE SALE AND REDEVELOPMENT OF LAND, as may be amended from time to time ("Agreement"), is made on or as of the _____ day of _____, **20_ (the "Effective Date")**, by and between the CITY OF CHICAGO, an Illinois municipal corporation and home rule unit of government ("City"), acting by and through its Department of Planning and Development (together with any successor department thereto, the "Department"), having its principal offices at City Hall, 121 North LaSalle Street, Chicago, Illinois 60602 and GREEN ERA EDUCATIONAL NFP, an Illinois not-for-profit corporation, ("Developer"), located at 218 N. Jefferson Street, Suite 300, Chicago, Illinois 60661.

RECITALS

WHEREAS, pursuant to an ordinance adopted by the City Council of the City (the "City Council") on November 17, 1999, and published at pages 19905 through, 19926 in the Journal of the Proceedings of the City Council (the "Journal") of such date, a certain redevelopment plan and project ("Plan") for the Halsted/Vincennes Redevelopment Project Area ("Area"), was approved; and

WHEREAS, pursuant to an ordinance adopted by the City Council on November 17, 1999, and published at pages 19866 through 19905 in the Journal of such date, the Area was designated as a redevelopment project area; and

WHEREAS, the Developer desires to purchase from the City, for One and 00/100 Dollars (\$1.00), the real property commonly known as 650 West 83rd Street, Chicago, Illinois

(subject to final title commitment and survey, the "Land"), which is located in the Area and which is improved with a water tower and tank, and legally described on Exhibit A attached hereto (the "Property"), together with all fixtures and certain personal property located in or on the Property (the "Personal Property"), and redevelop the Property as herein provided; and

WHEREAS, Developer desires to construct on the Property an anaerobic digester facility (the "Project") as more fully described on Exhibit B attached hereto; and.

WHEREAS, Developer is purchasing the Property on an "as is" basis, therefore Developer shall be responsible for maintaining or demolishing the water tower and tank or any other Personal Property on the Property in accordance with applicable law, and obtaining any necessary permission and/or approval from the neighboring landowner before doing so.

WHEREAS, the appraised fair market value of the Property is One Million Four Hundred Thousand Dollars (\$ 1,400,000); and

WHEREAS, the City of Chicago engaged Terracon Consultants, Inc. ("Environmental Engineer") to conduct a Phase I Environmental Site Assessment of the Property and Environmental Engineer has conducted such assessment; and

WHEREAS, the Phase I Environmental Site Assessment Report, dated May 1, 2015, (such report, the "Phase I Report"), identified that the site was used for lumber storage associated with the International Harvester Company from approximately 1910 through 1924. Three 12,000-gallon underground storage tanks (USTs) containing benzene and linseed oil were identified adjacent to a paint storage structure on the northwest corner of the site. The site was developed with an impounded automotive storage yard from at least 1962 through 2009. The northeast corner of the site was developed with a warehouse structure from 1910 through at least 1964; and

WHEREAS, The City of Chicago obtained a Phase II Environmental Site Assessment of the Property, dated May 29, 2015; and

WHEREAS, the Phase II Environmental Site Assessment Report, such report, the "Phase II Report"), identified remedial actions that are required to address areas of the site with attenuation capacity exceedances and hazardous waste lead exceedances, as well as eliminate human exposure to the constituents of concern at the site through the use of engineered barriers; and

WHEREAS, the City Council, pursuant to an ordinance adopted on _____, 2015, and published at pages _____ through _____ in the Journal of the Proceedings of the City Council of such date, authorized the sale of the Property and the Personal Property to the Developer for One and 00/100 Dollars (\$1.00), subject to the execution, delivery and recording of this Agreement, and in consideration of the Developer's fulfillment of its obligations under this Agreement, including the obligation to complete the Project.

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

SECTION 1. INCORPORATION OF RECITALS.

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

SECTION 2. PURCHASE PRICE / EARNEST MONEY / PERFORMANCE DEPOSIT.

1 Purchase Price. Subject to the terms, covenants and conditions of this Agreement, the City agrees to sell the Property and the Personal Property to the Developer, and the Developer agrees to purchase the Property and the Personal Property from the City, for One and 00/100 Dollars (\$1.00) (the "Purchase Price") to be paid by cashier's check, certified check or wire transfer of immediately available funds, on the Closing Date (defined in Section 3).

2 Earnest Money. [Intentionally omitted.]

3 Performance Deposit. [Intentionally omitted.]

SECTION 3. CLOSING.

The closing of the transfer of the Property and the Personal Property from the City to the Developer (the "Closing" or, the "Closing Date") shall take place at the downtown offices of Greater Illinois Title Company, 120 North LaSalle Street, Chicago, Illinois 60602 or such other reputable title company as may be selected by the Developer (the "Title Company"). In no event shall the Closing occur (1) until and unless the conditions precedent set forth in Section 8 are all satisfied, unless the Department, in its sole discretion, waives one or more of such conditions; and (2) any later than sixty (60) days after City Council approval (the "Outside Closing Date"), unless, at the Developer's request, the Department, in its sole discretion, extends the Outside Closing Date. At the Closing, the City shall deliver to the Developer (a) the Deed (as defined below); (b) all necessary state, county and municipal real estate transfer declarations; and (c) possession of the Property and the Personal Property.,

SECTION 4. CONVEYANCE OF TITLE.

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

- a. the Plan for the Area;
- b. standard exceptions in an ALT A title insurance policy;
- c. general real estate taxes and any special assessments or other taxes;

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- d. all easements, encroachments, covenants and restrictions of record and not shown of record;
- e. such other title defects that may exist; and
- f. - any and all exceptions caused by the acts of the Developer or its agents.

2 Conveyance of Personal Property. Concurrently with the conveyance of the Property from the City to the Developer, title to the Personal Property shall be sold, assigned and transferred by the City to the Developer without the need for a written instrument to effectuate such transfer.

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

4 Escrow. If the Developer requires conveyance through escrow, the Developer shall pay all escrow fees.

SECTION 5. TITLE, SURVEY AND REAL ESTATE TAXES.

1 Title Commitment and Insurance. Not less than 30 days before the anticipated Closing Date, the Developer shall order a current title commitment for the Property issued by the Title Company. The Developer shall pay the cost of, and shall be responsible for, obtaining on the Closing Date, any title insurance, extended coverage and any endorsements it deems necessary. The City agrees to provide the Title Company with a completed ALTA owner's statement, and other transfer documents typically required by the Title Company and typically provided by the City (but expressly excluding, however, "gap" undertakings, title indemnities and similar liabilities) at or prior to the Closing. At the Closing, the Developer shall deliver to the City a copy of the owner's policy of title insurance that it obtains with respect to the Property.

2 Survey. The Developer will be responsible for obtaining, at Developer's expense, a survey for the Property.

3 Real Estate Taxes. The City shall use reasonable efforts to obtain the waiver or release of any delinquent real estate taxes or tax liens on the Property prior to the Closing Date, to the extent such taxes or tax liens can be waived or released through submission of an abatement letter to the Cook County Treasurer, a motion to vacate a tax sale, or a petition for exemption. If, after using such reasonable efforts, the City is unable to obtain the waiver or release of any such tax liens or is unable to cause the Title Company to insure over such tax liens, or if the Property is encumbered with any other exceptions that would adversely affect the use and insurability of the Property for the development of the Project, the Developer shall have the option to do one of the following: (1) accept title to the Property subject to the exceptions, without reduction in the Purchase Price; or (2) terminate this Agreement by delivery of written notice to the City, in which event this Agreement shall be null and void, and except as otherwise specifically provided herein, neither party shall have any further right, duty or obligation hereunder. If the Developer elects not to terminate this Agreement as aforesaid, the Developer agrees to accept title subject to all exceptions.

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BUILDING PERMITS AND OTHER GOVERNMENTAL APPROVALS.

The Developer shall apply for and obtain all necessary building permits and other approvals, including,

without limitation, zoning approval (collectively, the "Governmental Approvals") necessary for the Project, no later than one-hundred eighty (180) days after the Closing, unless, at the Developer's request, the Department, in its sole discretion, grants an extension.

SECTION 7. PROJECT BUDGET AND FINANCING.

The total budget for the Project is \$21.4 Million Dollars. Funds for the Project will be secured and may be provided from a variety of sources, including cash equity, cash and in-kind services, bank loan, Tax Credits and government grants and loans. If Developer fails to secure funding for remediation costs from either the Illinois Environmental Protection Agency (the "IEPA") or the United States Environmental Protection Agency (the "USEPA"), by March 31, 2017, Developer shall so notify Department.

Developer shall be granted one (1) one-year extension to March 31, 2018 to re-apply for the USEPA funding. If Developer still does not secure funding from both sources, Developer shall be granted one additional six-month extension to September 30, 2018 to secure remediation funding from other sources. If Developer does not secure funding within such additional six month period, the Department shall have the right to terminate this Agreement and record the Reconveyance Deed as set forth in Section 18.3 of this Agreement.

SECTION 8. CONDITIONS TO THE CITY'S OBLIGATION TO CLOSE.

The obligations of the City under this Agreement are contingent upon each of the following being satisfied at least seven (7) days prior to the Closing Date, or by such other date as may be specified, unless waived or extended in writing by the Commissioner of the Department (the "Commissioner"):

8.1 Insurance. The Developer shall provide evidence of insurance reasonably acceptable to the City. Prior to the issuance of the Certificate of Completion (as defined in Section 12), the City shall be named as an additional insured on any liability insurance policies (\$1M per occurrence and \$2M aggregate) and as a loss payee (subject to the rights of any permitted mortgagee) on any property insurance policies from the Closing Date through the date the City issues the Certificate of Completion. With respect to property insurance, the City will accept an ACORD 28 form. With respect to liability insurance, the City will accept an ACORD 25 form, together with a copy of the endorsement that is added to the Developer's policy showing the City as an additional insured.

2 Legal Opinion. The Developer shall have delivered to the City a legal opinion stating, in part, that the Developer has been duly organized and that the Developer is duly authorized to enter into this Agreement. Such opinion shall be in a form and substance reasonably acceptable to the City's Corporation Counsel.

3 Due Diligence. The Developer shall have delivered to the City due diligence searches in Developer's name (UCC, State and federal tax lien, pending litigation and judgments

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in Cook County and the U.S. District Court for the Northern District of Illinois, and bankruptcy) showing no unacceptable liens, litigation, judgments or filings, as reasonably determined by the City's Corporation Counsel.

4 Organization and Authority Documents. The Developer shall have delivered to the City certified

articles of incorporation, including all amendments thereto, of the Developer, as furnished and certified by the Secretary of State of the State of Illinois; a Certificate of Good Standing dated no more than thirty (30) days prior to the Closing Date, issued by the Office of the Secretary of State of the State of Illinois, as to the good standing of the Developer; and bylaws, resolutions and such other organizational documents as the City may reasonably request.

5 Subordination Agreement. On the Closing Date, and prior to recording any mortgage approved pursuant to Section 8.2, the Developer shall, at the City's request, deliver to the City a subordination agreement substantially in the form attached hereto as Exhibit E attached hereto (the "Subordination Agreement"), in which the construction lender agrees to subordinate the lien of its mortgage to the covenants running with the land.

6 MBE/WBE and Local Hiring Compliance Plan. The Developer and the Developer's general contractor and all major subcontractors, if selected, shall meet with staff from the Department for an informational meeting regarding compliance with the MBE/WBE and other requirements set forth in Section 22, and at least fourteen (14) days prior to the Closing Date. The City shall have approved the Developer's compliance plan in accordance with Section 22.4 at least 14 days prior to the Construction Commencement Date as defined in Section 11.

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

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

9 Reconveyance Deed. Prior to the conveyance of the Property to the Developer, the Developer and Green Era Sustainability, LLC shall each deliver to the City a 'special warranty deed for the Property in recordable form naming the City as grantee ("Reconveyance Deed"), for possible recording in accordance with Section 18.3.d. below, if applicable. The City will deposit the Reconveyance Deeds into a sole order escrow account with the Title Company, with the City having sole power of direction with respect to such escrow account. The Developer shall pay all costs associated with such escrow account.

10 Right to Terminate. If any of the conditions in this Section 8 have not been satisfied to the City's reasonable satisfaction within the time period provided for herein, the City may, at its option, terminate this Agreement after (a) delivery of written notice to the Developer at any time after the expiration of the applicable time period, stating the condition or conditions that have not been fulfilled, and (b) providing the Developer with forty-five (45) days to fulfill those conditions. If, after receiving notice and an opportunity to cure as described in the preceding sentence, the Developer still has not fulfilled the applicable conditions to the City's reasonable satisfaction, this Agreement shall be null and void and, except as otherwise

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specifically provided, neither party shall have any further right, duty or obligation hereunder. Any forbearance by the City in exercising its right to terminate this Agreement upon a default hereunder shall not be construed as a waiver of such right.

SECTION 9. SITE PLANS AND ARCHITECTURAL DRAWINGS.

1 The Developer shall construct the Project on the Property in accordance with the Planned Development Zoning designation ("PD") which shall be approved prior to the Construction Commencement Date as defined in Section 11.

2 Relocation of Utilities, Curb Cuts and Driveways. To the extent necessary to complete the Project, the Developer shall be solely responsible for and shall pay all costs in regard to: (1) the relocation, installation or construction of public or private utilities located on the Property; (2) the relocation, installation and construction of any curb cuts and driveways; (3) the repair or reconstruction of any curbs, vaults, sidewalks or parkways required in connection with the Developer's redevelopment; (4) the removal of existing pipes, utility equipment or building foundations located on the Property; and (5) the termination of existing water or other services. Any streetscaping, including any paving of sidewalks, landscaping and lighting provided by the Developer, as part of the Project, must be approved by the City.

3 Inspection by the City. For the period commencing on the Closing Date and continuing through the date the City issues the Certificate of Completion, any duly authorized representative of the City shall have access to the Property at all reasonable times for the purpose of determining whether the Developer is constructing the Project in accordance with the terms of this Agreement and all applicable federal, state and local statutes, laws, ordinances, codes, rules, regulations, orders and judgments, including, without limitation, Sections 7-28 and 11-4 of the Municipal Code of Chicago relating to waste disposal (collectively, "Laws").

4 Barricades and Signs. Upon the City's request, the Developer agrees to erect such signs as the City may reasonably require identifying the Property as a City redevelopment project. The Developer may erect signs of its own incorporating such approved identification information upon the execution of this Agreement. Prior to the commencement of any construction activity requiring barricades, the Developer shall install a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all applicable Laws. The City shall have the right to approve all barricades, the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades, and all signage, which approval shall not be unreasonably withheld or delayed.

SECTION 10. LIMITED APPLICABILITY.

The approval of any Working Drawings and Specifications by the Department's Bureau of Economic Development is for the purpose of this Agreement only and does not constitute the approval required by the City's Department of Buildings, any other Department Bureau (such as, but not limited to, the Department's Bureau of Zoning), or any other City department; nor does the approval by the Department pursuant to this Agreement constitute an approval of the quality, structural soundness or the safety of any improvements located or to be located on the Property.

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The approval given by the Department shall be only for the benefit of the Developer and any lienholder authorized by this Agreement.

SECTION 11. COMMENCEMENT AND COMPLETION OF PROJECT.

Subject to the receipt of all necessary government approvals, the Developer shall commence

remediation/construction of the Project no later than May 1, 2017(the date on which construction/remediation commences, the "Construction Commencement Date"), and shall complete the Project, as reasonably determined by the Department and evidenced by a "Certificate of Completion" (as defined in Section 12), no later than March 31, 2019.

The Commissioner shall have discretion to grant one extension of the Construction Commencement and Completion dates for good cause shown by issuing a written extension letter. The Developer shall give written notice to the City within five (5) days after it commences construction of the Project. The Project shall be constructed in accordance with all applicable Laws.

SECTION 12. CERTIFICATE OF COMPLETION.

A. Upon the later of completion of the Project and, the Developer's receipt from the IEPA of a Final Comprehensive No Further Remediation Letter for the Property, the Developer shall request from the City a Certificate of Completion (the "Certificate of Completion"). Within forty-five (45) days thereof, the City shall provide the Developer with either the Certificate of Completion or a written statement indicating in adequate detail how the Developer has failed to complete the Project in compliance with this Agreement, or is otherwise in default, and what measures or acts are necessary, in the sole and reasonable opinion of the Department, for the Developer to take or perform in order to obtain the Certificate of Completion. If the Department requires additional measures or acts to assure compliance, the Developer shall resubmit a written request for the Certificate of Completion upon compliance with the City's response. The Certificate of Completion shall be in recordable form, and shall, upon recording, constitute a conclusive determination of satisfaction and termination of certain of the covenants in this Agreement and the Deed (but excluding those on-going covenants as referenced in Section 17) with respect to the Developer's obligations to construct the Project.

SECTION 13. RESTRICTIONS ON USE.

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

1 The Developer shall construct the Project in accordance with the PD, this Agreement and all applicable Laws.

2 The Developer shall not, in violation of applicable law, discriminate on the basis of race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, or source of income in the sale, lease, rental, use or occupancy of the Property or any part thereof, except as permitted by applicable law.

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3 The Developer shall use the Property for the Project and for no other purpose, other than an anaerobic digester and renewable energy uses, without the prior written consent of the Commissioner.

4 The Developer shall devote the Property to a use consistent with the Plan.

5 Developer, its successors and assigns, shall not, without the prior written consent of the Department, amend or terminate the PD or the uses permitted by the PD for twenty (20) years and one day after the date of the Certificate of Completion.

SECTION 14. TRANSFER OF PROPERTY; TRANSFER OF INTERESTS IN DEVELOPER.

A. Restriction on Transfer Prior to Issuance of Certificate of Completion. Prior to the City's issuance of the Certificate of Completion, as provided herein, the Developer may not, without the prior written consent of the Department, which consent shall be in the Department's sole and absolute discretion: (a) directly or indirectly sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or all or any portion of the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto) or any interest therein or the Developer's controlling interests therein (including, without limitation, a transfer by assignment of any beneficial interest under a land trust), except for leases of tenant space in the Building and further except for sales, transfers, conveyances, leases or other dispositions to an "Insider Party" (as defined in Section 14.F. below); or (b) directly or indirectly assign this Agreement. The Developer acknowledges and agrees that the Department may withhold its consent under (a) or (b) above if, among other reasons, the proposed purchaser, transferee or assignee (or such entity's principal officers, members or directors) is in violation of any Laws, or if the Developer fails to submit sufficient evidence of the financial responsibility, business background and reputation of the proposed purchaser, transferee or assignee. In the event of a proposed sale, transfer, conveyance, lease or other disposition of all or any portion of the Property, the Developer shall provide the City copies of any and all sales contracts, legal descriptions, descriptions of intended use, certifications from the proposed purchaser, transferee or assignee, as applicable, regarding this Agreement and such other information as the City may reasonably request. The proposed purchaser, transferee or assignee (including any purchaser, transferee or assignee that is an Insider Party), must be qualified to do business with the City (including but not limited to anti-scofflaw requirement).

B. Transfer of Property Within Ten (10) Years Following Issuance of Certificate of Completion. If the Developer sells the Property within ten (10) years following the City's issuance of the Certificate of Completion (except for sales, transfers, conveyances, leases or other dispositions to an Insider Party), the Developer shall pay to the City as follows:

- i) if the Net Sale Proceeds are greater than or equal to the dollar amount of the Developer's equity contribution to the Project plus FMV of the City Land, then the Developer shall pay to the City a dollar amount equal to the sum of the "FMV of the City Land" and fifty percent (50%) of the Net Profit;
- ii) if the Net Sales Proceeds are greater than One Dollar (\$1.00), but less than the dollar amount of the Developer's equity contribution to the Project plus FMV of the City Land, then the Developer shall pay to the City on a pari passu basis a pro rata dollar amount

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equal to the FMV of the City Land divided by (the FMV of the City Land plus the dollar amount of the Developer's equity contribution to the Project); or

(iii) if the Net Sales Proceeds are negative (i.e., the Property is sold for a loss), then the Developer does not owe any money to the City pursuant to this Section 14.B. For purposes of this Section 14.B., the following definitions shall apply: 2.5%ROI Amount: Dollar amount which represents 2.5% project ROT (determined using a method of calculation acceptable to the Department).

FMV of the City Land: The fair market value of the City Land, valued without improvements, as of date of the Developer's sale of the Property, as determined by an appraiser selected by the City and paid for by the Developer.

Net Profit: Net Sale Proceeds minus FMV of the City Land, which will be paid on a pari passu basis with a return of Developer's equity to Developer minus 2.5%ROI Amount.

Net Sale Proceeds: Gross sales price at which the Developer sells the Property to a third-party less closing costs and commissions less the dollar amount of the mortgage that was approved by the Department.

C. Transfer Does Not Occur Within Ten (10) Years Following Issuance of Certificate of Completion. If the Developer does not sell the Property within ten (10) years following the City's issuance of the Certificate of Completion, then:

i) if the Developer's project ROI (determined using a method of calculation acceptable to the Department) is greater than 2.5% for the period commencing on the date the City issues the Certificate of Completion and ending ten years following such date, the Developer shall pay the City \$1,680,000 (which amount equals the appraised fair market value of the City Land as of June 16, 2015, plus an annual 2% increase).

ii) if the Developer's average annual ROI (determined using a method of calculation acceptable to the Department) is 2.5% or less for the period commencing on the date the City issues the Certificate of Completion and ending ten (10) years following such date, the Developer shall not owe the City any funds with respect to this Section 14.

D. City Lien. Concurrent with the City Land Closing, the City shall record a lien in the amount of Six Hundred Thirty-Six Thousand Dollars (\$1,686,000), which lien shall be subordinated to any construction or primary loan that is associated with the Project and has been approved by the Department. The Developer shall complete all documents required by the City in connection with the recording of such lien.

E. Transfer of Interests in the Developer. If the Developer is a business entity, no principal party of the Developer (e.g., a general partner, member, manager or shareholder) may sell, transfer or assign any of its interest in the entity prior to the City's issuance of the Certificate of Completion to anyone other than an Insider Party, without the prior written consent of the Department, which consent shall be in the Department's sole and absolute discretion. The Developer must disclose the identity of all members to the City at the time such members obtain an interest in the Developer.

F. Insider Party. For purposes of this Section 14, "Insider Party" means an individual or entity that is eligible to do business with the City, and that satisfies one or more of the following criteria:

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i) existing (as of the Effective Date) shareholder, partner, or member of the Developer;

ii) a spouse and/or issue or an entity solely controlled by a spouse and/or issue of any existing (as of the Effective Date) shareholders, partners, or members of the Developer;

iii) the trustee(s) of a testamentary trust for the benefit of the spouse and/or issue of any existing (as of the Effective Date) shareholders, partners, or members of the Developer, that succeeded to Developer's interest upon any existing (as of the Effective Date) shareholders, partners, or members of the Developer's death, divorce, or legal separation; or

iv) a new entity solely composed of any existing (as of the Effective Date) shareholders, partners, or members of the Developer and their spouse and/or issues.

SECTION 15. LIMITATION UPON ENCUMBRANCE OF PROPERTY.

15.1 Prior to the issuance of the Certificate of Completion, the Developer shall not, without the

Department's prior written consent, which shall be in the Department's sole discretion, engage in any financing or other transaction which creates a financial encumbrance or lien on the Property, except for the purposes of obtaining: (a) funds necessary to acquire the Property; (b) funds necessary to construct the Project in substantial accordance with the Budget; (c) after construction, funds necessary to own, maintain and operate the Property and the Project in accordance with the requirements of this Agreement; and (d) any refinancing of the loans specified herein. After the issuance of the Certificate of Completion, no City consent shall be required for any type of financing or other transaction which creates a financial encumbrance or lien on the Property.

15.2 During the period commencing on the issuance of the Certificate of Completion and expiring on the date that is twenty (20) years after the date of the Certificate of Completion, the Developer shall not, without the Department's prior written consent, which consent shall be in the Department's sole discretion, engage in any redevelopment of the Property other than the Project.

SECTION 16. MORTGAGEES NOT OBLIGATED TO CONSTRUCT

Notwithstanding any other provision of this Agreement or of the Deed, the holder of any mortgage authorized by this Agreement (or any affiliate of such holder) shall not itself be obligated to construct or complete the Project, or to guarantee such construction or completion, but shall be bound by the other covenants running with the land specified in Section 17 and, at Closing, at the City's request, shall execute a Subordination Agreement (as defined in Section 8.8). If any such mortgagee or its affiliate succeeds to the Developer's interest in the Property prior to the issuance of the Certificate of Completion, whether by foreclosure, deed-in-lieu of foreclosure or otherwise, and thereafter transfers its interest in the Property to another party (that is not also a mortgagee), such transferee shall be obligated to complete the Project, and shall also be bound by the other covenants running with the land specified in Section 17.

SECTION 17. COVENANTS RUNNING WITH THE LAND.

The parties agree, and the Deed shall so expressly provide, that the covenants provided in

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Section 11 (Commencement and Completion of Project), Section 13 (Restrictions on Use), and Section 14 (Transfer of Property; Transfer of Interests in Developer) and Section 15 (Limitation Upon Encumbrance of Property) will be covenants running with the land, binding on the Developer and its successors and assigns (subject to the limitations set forth in Section 16 above as to any permitted mortgagees) to the fullest extent permitted by law and equity for the benefit and in favor of the City, and shall be enforceable by the City. The covenants provided in Section JJ_,_ and Section 13.1 shall terminate upon the issuance of the Certificate of Completion. The covenants contained in Section 13.2 shall remain in effect without limitation as to time. The covenants contained in Section 13.3, 13.5 and Section 14 and Section 15 shall terminate twenty (20) years and one (1) day after the date the City issues the Certificate of Completion, unless terminated in writing at an earlier date in the sole discretion of the Commissioner. The covenant contained in Section 13.4 shall terminate upon the expiration of the Plan, as such expiration may be amended from time to time in accordance with and pursuant to applicable law.

SECTION 18. PERFORMANCE AND BREACH.

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

2 Permitted Delays. The Developer shall not be considered in breach of its obligations under this Agreement in the event of a delay due to unforeseeable causes beyond the Developer's control and without the Developer's fault or negligence, including but not limited to, acts of God, acts of the public enemy, acts of the United States government, fires, floods, epidemics, quarantine restrictions, strikes, embargoes, material shortages, and unusually severe weather or delays of contractors or subcontractors due to such causes. The time for the performance of the obligations shall be extended only for the period of the delay and only if the Developer requests it in writing of the City within thirty (30) days after the beginning of any such delay.

3 Breach.

- a. Generally. If the Developer defaults in performing its obligations under this Agreement, the City shall deliver written notice of such default, after which the Developer shall have a 45-day cure period to remedy such default. If the default is not capable of being cured within the 45-day period, then provided the Developer has commenced to cure the default and is diligently proceeding to cure the default within the 45-day period, and thereafter diligently prosecutes such cure through to completion, then the 45-day period shall be extended for the length of time that is reasonably necessary to cure the default. If the default is not cured in the time period provided for herein, the City may institute such proceedings at law or in equity as may be necessary or desirable to cure and remedy the default, including but not limited to, proceedings to compel specific performance.

No notice or cure period shall apply to a failure to obtain funding as set forth in Section 7 or to close by the respective dates as set forth in Section 3 herein. Unless the failure to close or obtain funding is due to circumstances described in Section 18.2. above or caused by a breach by the City under the terms of this Agreement,

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such failure shall constitute an immediate "Event of Default". Failure to close or obtain funding by the dates set forth in Sections 3 and 7 shall entitle the City to terminate this Agreement.

- b. Event of Default. The occurrence of any one or more of the following shall constitute an "Event of Default" after written notice from the City (if required):
1. The Developer fails to perform any obligation of the Developer under this Agreement; which default is not cured pursuant to Section 18.3.a.; or
 2. The Developer makes or furnishes a warranty, representation, statement or certification to the City (whether in this Agreement, an Economic Disclosure Form, or another document) which is not true and correct, which default is not cured pursuant to Section 18.3.a.; or
 3. A petition is filed by or against the Developer under the Federal Bankruptcy Code or any similar state or federal law, whether now or hereafter existing, which is not vacated, stayed or set aside within thirty (30) days after filing; or
 4. ' Except as excused by Section 18.2 above, the Developer abandons or substantially suspends the construction work for a period of time greater than 60 days

(no notice or cure period shall apply); or

5. The Developer fails to comply with the operating covenant set forth in Section 13.3 (no notice or cure period shall apply); or
6. Unless being contested in good faith by the Developer, the Developer fails to timely pay real estate taxes or assessments affecting the Property or suffers or permits any levy or attachment, material suppliers' or mechanics' lien, or any other lien or encumbrance unauthorized by this Agreement to attach to the Property, which default is not cured pursuant to Section 18.3(a); or
7. The Developer makes an assignment, pledge, unpermitted financing, encumbrance, transfer or other disposition in violation of this Agreement (no notice or cure period shall apply); or
8. The Developer's financial condition or operations adversely change to such an extent that would materially and adversely affect the Developer's ability to complete the Project, which default is not cured pursuant to Section 18.3.a.; or
9. The Developer fails to perform, keep or observe any of the other covenants, promises, agreements, or obligations under this Agreement, including but not limited to, the covenants set forth in

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Sections 13 and 17 herein, or any other written agreement entered into with the City with respect to this Project, which default is not cured pursuant to Section 18.3.a.; or

10. Failure to close by the Outside Closing Date, unless the Department in its sole discretion extends the Outside Closing Date in accordance with Section 3 of this Agreement; or
 11. Failure to commence or completion construction in accordance with the timeframes set forth in Section 11 of this Agreement.
 12. Failure to either (a) timely apply with the Board of Review for Cook County, Illinois, for an exemption from real estate property taxes, (b) timely move the Property back to the tax rolls, or (c) timely pay real estate property taxes, which default is not cured pursuant to Section 18.3.a.
- c. Prior to Conveyance. Prior to Closing, if an Event of Default occurs and is continuing, and the default is not cured in the time period provided herein, the City may terminate this Agreement, and institute any action or proceeding at law or in equity against the Developer.
- d. After Conveyance. If an Event of Default occurs after the Closing but prior to the issuance of the Certificate of Completion, and the default is not cured in the time period provided for in this Section 18.3, the City may terminate this Agreement and exercise any and all remedies available to it at law or in equity, including, without limitation, the right to re-enter and take possession of the Property, terminate the estate conveyed to the Developer, and direct the Title Company to record the Reconveyance Deed for the purpose of revesting title to the Property in the City (the "Right of Reverter"); provided, however, the City's Right of Reverter shall be limited by, and shall not defeat, render invalid, or limit in any way, the lien of any mortgage authorized by this Agreement. If the Reconveyance Deed is

recorded by the Title Company, the Developer shall be responsible for all real estate taxes and assessments which accrued during the period the Property was owned by the Developer, and shall cause the release of all liens or encumbrances placed on the Property during the period of time the Property was owned by the Developer. The Developer will cooperate with the City and Title Company to ensure that if the Title Company records the Reconveyance Deed, such recording is effective for purposes of transferring title to the Property to the City, subject only to those title exceptions that were on title as of the date and time that the City conveyed the Property to the Developer.

If title to the Property reverts in the City pursuant to the Right of Reverter, the Developer shall be responsible for all real estate taxes and assessments which accrued during the period the Property was owned by the Developer, and shall cause the release of all liens or encumbrances placed on the Property during the period of time the Property was owned by the Developer. Notwithstanding the foregoing to the

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contrary, prior to its exercise of its Right of Reverter, the City shall provide written notice to the Developer of its intent to exercise its Right of Reverter, and the Developer shall have an additional ninety (90) days to cure the applicable Event of Default.

Notwithstanding anything contained herein to the contrary, the City's Right of Reverter shall terminate on the date that is twenty (20) years after the date on which the City issues the Certificate of Completion.

- e. Waiver and Estoppel. Any delay by the City in instituting or prosecuting any actions or proceedings or otherwise asserting its rights shall not operate as a waiver of such rights or operate to deprive the City of or limit such rights in any way. No waiver made by the City with respect to any specific default by the Developer shall be construed, considered or treated as a waiver of the rights of the City with respect to any other defaults of the Developer.

SECTION 19. CONFLICT OF INTEREST; CITY'S AND DEVELOPER'S REPRESENTATIVES NOT INDIVIDUALLY LIABLE.

The Developer warrants that no agent, official, or employee of the City shall have any personal interest, direct or indirect, in this Agreement or the Property, nor shall any such agent, official or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any entity or association in which he or she is directly or indirectly interested. No agent, official, or employee of the City shall be personally liable to the Developer or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the Developer or successor or on any obligation under the terms of this Agreement. It is expressly understood and agreed to by and between the parties hereto, anything herein to the contrary notwithstanding, that no individual member of the Developer, its officers, members of its board of directors, officials, agents, representatives or employees shall be personally liable for any of the Developer's obligations or any undertaking or covenant of the Developer contained in this Agreement.

SECTION 20. INDEMNIFICATION.

The Developer agrees to indemnify, defend and hold the City harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses (including, without limitation,

reasonable attorneys' fees and court costs) (collectively "Losses") suffered or incurred by the City arising from or in connection with: (1) an Event of Default that has occurred; (2) the failure of the Developer or any of Developer's contractors, subcontractors or agents to pay contractors, subcontractors or material suppliers in connection with the construction of the Project; (3) the failure of the Developer to redress any misrepresentations or omissions in this Agreement or any other agreement relating hereto; and (4) any actions, including but not limited to, conducting environmental tests on the Property as set forth in Section 21 herein, resulting from any activity undertaken by the Developer on the Property prior to or after the conveyance of said Property to the Developer by the City; provided, however, the Developer shall have no obligation to indemnify the City for Losses to the extent such Losses are

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caused by the City or its agents. This indemnification shall survive any termination of this Agreement (regardless of the reason for such termination).

SECTION 21. ENVIRONMENTAL MATTERS.

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

2 Right of Entry. Pursuant to the Developer's request, the City previously granted the Developer the right, at its sole cost and expense, to enter the Property pursuant to one or more right of entry agreements to inspect the same, perform surveys, environmental assessments, soil and any other due diligence it deems necessary or desirable to satisfy itself as to the condition of the Property. The Developer acknowledges that it is satisfied with the condition of the Property. The Developer agrees to deliver to the City a copy of each report prepared by or for the Developer regarding the environmental condition of the Property.

3 Environmental Remediation. The Developer shall enroll the Property in the IEPA Site Remediation Program as set forth in Title XVII of the Illinois Environmental Protection Act, 415 ILCS 5/58 et seq., and the regulations promulgated thereunder, and undertake all remediation work that may be needed on the Property promptly after the Closing in order to obtain a Final Comprehensive No Further Remediation Letter. The contractors selected by the Developer, and the terms of the contract ("Remediation Contract") must be approved by the City,

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which approval shall not be unreasonably withheld, prior to the commencement of any remediation work on the Property. The Developer shall be solely responsible for all site preparation costs, including, but not limited to, the removal of soil, pre-existing building foundations, soil exceeding the IEPA's Tiered Approach to Cleanup Objectives most stringent site remediation objectives, and demolition debris, and the removal, disposal, storage, remediation, removal or treatment of Hazardous Waste from the Property.

The Developer shall enroll the Property in the IEPA Site Remediation Program as set forth in Title XVII of the Illinois Environmental Protection Act, 415 ILCS 5/58 et seq., and the regulations promulgated thereunder (the "SRP"), and take all necessary and proper steps to obtain a draft Comprehensive No Further Remediation Letter based on TACO remediation objectives ("Draft NFR Letter"). The City, acting through its Department of Fleet and Facility Management, and any successor department thereto ("DFFM") shall have the right to review and approve the Draft NFR Letter.

After DFFM approves the Draft NFR Letter (as applicable), the Developer covenants and agrees to complete all investigation, removal, response, disposal, remediation and other activities ("Remediation Work") necessary to obtain (as applicable) a Final Comprehensive No Further Remediation Letter from the IEPA approving the use of the Property for the Project, based on the Draft NFR Letter ("Final NFR Letter"). The Final NFR Letter may be reasonably conditioned upon use and maintenance of engineered barriers and other institutional or engineering controls acceptable to the IEPA. The City shall have the right to review in advance and approve all documents submitted to the IEPA under the SRP Program, as amended or supplemented from time to time, including, without limitation, the Comprehensive Site Investigation and Remediation Objectives Report, the Remedial Action Plan, and the Remedial Action Completion Report (collectively, the "SRP Documents") and any changes thereto. The Developer shall cooperate and consult with the City at all relevant times (and in all cases upon the City's request) with respect to environmental matters. The Developer shall bear sole responsibility for all aspects of the Remediation Work and any other investigative and cleanup costs associated with the Property. The Developer shall promptly transmit to the City copies of all Environmental Documents prepared or received after the date hereof, including, without limitation, any written communications delivered to or received from the IEPA or other regulatory agencies with respect to the Remediation Work.

The Developer acknowledges and agrees that the City will not issue a Certificate of Completion or a Certificate of Occupancy for the Project until the IEPA has issued, and the City has approved, a Final Comprehensive NFR Letter for the Property. The Developer must abide by the terms and conditions of the final NFR letter.

. 21.4 Release and Indemnification. The Developer, on behalf of itself and its officers, directors, employees, successors, assigns and anyone claiming by, through or under them (collectively, the "Developer Parties"), hereby releases, relinquishes and forever discharges the City, its officers, agents and employees, from

and against any and all Losses which the Developer ever had, now have, or hereafter may have, whether grounded in tort or contract or otherwise, in any and all courts or other forums, of whatever kind or nature, whether known or unknown, foreseen or unforeseen, now existing or occurring after the Closing Date, based upon,

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arising out of or in any way connected with, directly or indirectly (i) any environmental contamination, pollution or hazards associated with the Property or any improvements, facilities or operations located or formerly located thereon, including, without limitation, any release, emission, discharge, generation, transportation, treatment, storage or disposal of Hazardous Materials, or threatened release, emission or discharge of Hazardous Materials; (ii) the structural, physical or environmental condition of the Property, including, without limitation, the presence or suspected presence of Hazardous Materials in, on, under or about the Property or the migration of Hazardous Materials from or to other Property; (iii) any violation of, compliance with, enforcement of or liability under any Environmental Laws, including, without limitation, any governmental or regulatory body response costs, natural resource damages or Losses arising under CERCLA; and (iv) any investigation, cleanup, monitoring, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision or other third party in connection or associated with the Property or any improvements, facilities or operations located or formerly located thereon (collectively, "Released Claims"); provided, however, the foregoing release shall not apply to the extent such Losses are proximately caused by the gross negligence or willful misconduct of the City following the Closing Date. Furthermore, the Developer shall indemnify, defend (through an attorney reasonably acceptable to the City) and hold the City and its officers, agents and employees harmless from and against any and all Losses which may be made or asserted by any third parties (including, without limitation, any of the Developer Parties) arising out of or in any way connected with, directly or indirectly, any of the Released Claims, except as provided in the immediately preceding sentence for the City's gross negligence or willful misconduct following the Closing Date.

5 Release Runs with the Property. The covenant of release in Section 21.4 above shall run with the Property, and shall be binding upon all successors and assigns of the Developer with respect to the Property, including, without limitation, each and every person, firm, corporation, limited liability company, trust or other entity owning, leasing, occupying, using or possessing any portion of the Property under or through the Developer following the date of the Deed. The Developer acknowledges and agrees that the foregoing covenant of release constitutes a material inducement to the City to enter into this Agreement, and that, but for such release, the City would not have agreed to convey the Property to the Developer. It is expressly agreed and understood by and between the Developer and the City that, should any future obligation of the Developer or Developer Parties arise or be alleged to arise in connection with any environmental, soil or other condition of the Property, the Developer and any of the Developer Parties shall not assert that those obligations must be satisfied in whole or in part by the City, because Section 21.4 contains a full, complete and final release of all such claims, except as provided in such section for the City's gross negligence or willful misconduct following the Closing Date.

6 Survival. This Section 21 shall survive the Closing Date or any termination of this Agreement (regardless of the reason for such termination).

SECTION 22. DEVELOPER'S EMPLOYMENT OBLIGATIONS.

22.1 Employment Opportunity. The Developer agrees, and shall contractually obligate its various contractors, subcontractors and any affiliate of the Developer operating on the

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Property (collectively, the "Employers" and individually, an "Employer") to agree, that with respect to the provision of services in connection with the construction of the Project:

a) Neither the Developer nor any Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, gender identity, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Section 2-160-010 et seq. of the Municipal Code of Chicago, as amended from time to time (the "Human Rights Ordinance"). The Developer and each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon the foregoing grounds, and are treated in a non-discriminatory manner with regard to all job-related matters, including, without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Developer and each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Developer and each Employer, in all print solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon the foregoing grounds.

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

c) The Developer and each Employer shall comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including, without limitation, the Human Rights Ordinance, and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1993), and any subsequent amendments and regulations promulgated thereto.

d) The Developer, in order to demonstrate compliance with the terms of this Section 22.1, shall cooperate with and promptly and accurately respond to reasonable inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of federal, state and municipal agencies.

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

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(f) Failure to comply with the employment obligations described in this Section 22.1 shall be a basis for the City to pursue remedies under the provisions of Section 18.

22.2 City Resident Employment Requirement. The Developer agrees, and shall contractually obligate each Employer to agree, that during the construction of the Project, the Developer and each Employer shall comply with the minimum percentage of total worker hours performed by actual residents of the City of Chicago as specified in Section 2-92-330 of the Municipal Code of Chicago (at least fifty percent); provided, however, that doing so does not violate a collective bargaining agreement of Developer or an Employer and that in addition to complying with this percentage, the Developer and each Employer shall be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions.

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

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

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

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

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

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

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g) Good faith efforts on the part of the Developer and the Employers to provide work for actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the chief procurement officer) shall not suffice to replace the actual, verified achievement of the requirements of this Section 22.2 concerning the worker hours performed

by actual Chicago residents.

h) If the City determines that the Developer or an Employer failed to ensure the fulfillment of the requirements of this Section 22.2 concerning the worker hours performed by actual Chicago residents or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Section 22.2. If such non-compliance is not remedied in accordance with the breach and cure provisions of Section 18.3, the parties agree that 1/20 of 1 percent (.05%) of the aggregate hard construction costs set forth in the Final Budget shall be surrendered by the Developer and for the Employers to the City in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject the Developer and/or the other Employers or employees to prosecution.

(i) 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.

(j) The Developer shall cause or require the provisions of this Section 22.2 to be included in all construction contracts and subcontracts related to the construction of the Project.

22.3 Developer's MBE/WBE Commitment. Developer's MBE/WBE Commitment. The Developer agrees for itself and its successors and assigns, and, if necessary to meet the requirements set forth herein, shall contractually obligate the general contractor to agree, that during the construction of the Project:

(a) Consistent with the findings which support, as applicable, (i) the Minority-Owned and Women-Owned Business Enterprise Procurement Program, Section 2-92-420 et seq., Municipal Code of Chicago (the "Procurement Program"), and (ii) the Minority-and Women-Owned Business Enterprise Construction Program, Section 2-92-650 et seq., Municipal Code of Chicago (the "Construction Program," and collectively with the Procurement Program, the "MBE/WBE Program"), and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this Section 22.3, during the course of construction of the Project, at least 24% of the aggregate hard construction costs shall be expended for contract participation by

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minority-owned businesses and at least 4% of the aggregate hard construction costs shall be expended for contract participation by women-owned businesses.

b) For purposes of this Section 22.3 only:

i) The Developer (and any party to whom a contract is let by the Developer in connection with the Project) shall be deemed a "contractor" and this Agreement (and any contract let by the Developer in connection with the Project) shall be deemed a "contract" or a "construction contract"

as such terms are defined in Sections 2-92-420 and 2-92-670, Municipal Code of Chicago, as applicable.

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

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

c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code of Chicago, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by the Developer) or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of (i) the MBE or WBE participation in such joint venture, or (ii) the amount of any actual work performed on the Project by the MBE or WBE); by the Developer utilizing a MBE or a WBE as the general contractor (but only to the extent of any actual work performed on the Project by the general contractor); by subcontracting or causing the general contractor to subcontract a portion of the construction of the Project to one or more MBEs or WBEs; by the purchase of materials or services used in the construction of the Project from one or more MBEs or WBEs; or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to the Developer's MBE/WBE commitment as described in this Section 23.3. In accordance with Section 2-92-730, Municipal Code of Chicago, the Developer shall not substitute any MBE or WBE general contractor or subcontractor without the prior written approval of the Department.

d) The Developer shall deliver quarterly reports to the City's monitoring staff describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports shall include, inter alia, the name and business address of each MBE and WBE

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solicited by the Developer or the general contractor to work on the Project, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the construction of the Project, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist the City's monitoring staff in determining the Developer's compliance with this MBE/WBE commitment. The Developer shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs in connection with the construction of the Project for at least five (5) years after completion of the Project, and the City's monitoring staff shall have access to all such records maintained by the Developer, on prior notice of at least five (5) business days, to allow the City to review the Developer's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the construction of the Project.

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

f) Any reduction or waiver of the Developer's MBE/WBE commitment as described in this Section 22.3 shall be undertaken in accordance with Sections 2-92-450 and 2-92-730, Municipal Code of Chicago, as applicable.

22.4 Pre-Construction Conference and Post-Closing Compliance Requirements. Not less than fourteen (14) days prior to the Commencement of Construction, the Developer and the Developer's general contractor and all major subcontractors shall meet with the Department monitoring staff regarding compliance with all Section 22 requirements. During this pre-construction meeting, the Developer shall present its plan to achieve its obligations under this Section 22, the sufficiency of which the City's monitoring staff shall approve as a precondition to the Commencement of Construction. During the construction of the Project, the Developer shall submit all documentation required by this Section 22 to the City's monitoring staff, including, without limitation, the following: (a) subcontractor's activity report; (b) contractor's certification concerning labor standards and prevailing wage requirements; (c) contractor letter of understanding; (d) monthly utilization report; (e) authorization for payroll agent; (f) certified payroll; (g) evidence that MBE/WBE contractor associations have been informed of the Project via written notice and hearings; and (h) evidence of compliance with job creation/job retention requirements. Failure to submit such documentation on a timely basis, or a determination by the City's monitoring staff, upon analysis of the documentation, that the Developer is not complying with its obligations under this Section 22, shall, upon the delivery of written notice to the Developer, be deemed an Event of Default. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (w) issue a written demand to the Developer to halt construction of the Project, (x) withhold any further payment of

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any City funds to the Developer or the general contractor, or (y) seek any other remedies against the Developer available at law or in equity.

SECTION 23. REPRESENTATIONS AND WARRANTIES.

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

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

b. All certifications and statements contained in the Economic Disclosure Statement last submitted

to the City by the Developer (and any legal entity holding an interest in the Developer) are true, accurate and complete.

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

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

e. To the best of the Developer's knowledge, the Project will not violate: (a) any Laws, including, without limitation, any zoning and building codes and environmental regulations; or (b) any building permit, restriction of record or other agreement affecting the Property.

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

3 Survival of Representations and Warranties. Each of the parties agrees that all of its representations and warranties set forth in this Section 23 or elsewhere in this Agreement are true as of the date of this Agreement and will be true in all material respects at all times

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thereafter, except with respect to matters which have been disclosed in writing and approved by the other party.

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SECTION 24. PROVISIONS NOT MERGED WITH DEED.

The provisions of this Agreement shall not be merged with the Deed, and the delivery of the Deed shall not be deemed to affect or impair the provisions of this Agreement.

SECTION 25. HEADINGS.

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

SECTION 26. ENTIRE AGREEMENT.

This Agreement constitutes the entire agreement between the parties and supersedes and replaces completely any prior agreements between the parties with respect to the subject matter hereof. This Agreement may not be modified or amended in any manner other than by supplemental written agreement executed by the parties.

SECTION 27. SEVERABILITY.

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

SECTION 28. NOTICES.

Any notice, demand or communication required or permitted to be given hereunder shall be given in writing at the addresses set forth below by any of the following means: (a) personal service; (b) facsimile transmission, provided that there is written confirmation of such communications; (c) overnight courier; or (d) registered or certified first class mail, postage prepaid, return receipt requested:

If to the City:

City of Chicago
Department of Planning and Development
121 North LaSalle Street
Room 1000 - City Hall
Chicago, Illinois 60602
Attn: Commissioner
Fax: 312-744-5892

With a copy to:

City of Chicago
Department of Law 121 North LaSalle
Street Room 600
Chicago, Illinois 60602 Attn: Real Estate
Division

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Fax: 312-742-0277

Green Era Educational NFP 218 N. Jefferson Street, Suite 300 Chicago, Illinois 60661 Attn: Mr. Jason Feldman
Fax:

With a copy to:

Neal and Leroy
120 N. LaSalle Street, Suite 2600 Chicago,
Illinois 6602 Attn: Mr. Langdon Neal Fax:
(312)641-5137

Any notice, demand or communication given pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch by electronic means, respectively, provided that such electronic dispatch is confirmed as having occurred prior to 5:00 p.m. on a business day. If such dispatch occurred after 5:00 p.m. on a business day or on a non-business day, it shall be deemed to have been given on the next business day. Any notice, demand or communication given pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier. Any notice, demand or

communication sent pursuant to clause (d) shall be deemed received three business days after mailing. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, demands or communications shall be given.

SECTION 29. SUCCESSORS AND ASSIGNS.

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

SECTION 30. TERMINATION.

In the event that the Closing has not occurred by the Outside Closing Date, or any extensions thereof in the Department's sole discretion, defined herein, then the City may terminate this Agreement upon written notice to the Developer.

SECTION 31. RECORDATION OF AGREEMENT.

Either party may record this Agreement at the Office of the Cook County Recorder of Deeds. The party so choosing to record this Agreement shall pay the recording fees.

SECTION 32. CONSENT AND APPROVAL.

Except where otherwise specified, whenever the consent or approval of the City is required hereunder, such consent or approval shall not be unreasonably withheld, conditioned, or delayed.

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SECTION 33. OTHER ACTS

The parties agree to perform such oilier acts and to execute, acknowledge and deliver such other instruments, documents and materials as may be reasonably necessary to consummate the transactions contemplated by this Agreement.

SECTION 34. BUSINESS RELATIONSHIPS. *

The Developer acknowledges (1) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (2) that it has read such provision and understands that pursuant to such Section 2-156-030 (b) it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected City official or employee has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship, and (3) notwithstanding anything to the contrary contained in this Agreement, that a violation of Section 2-156-030 (b) by an elected official, or any person acting at the direction of such official, with respect to any transaction contemplated by this Agreement shall be grounds for termination of this Agreement and the transactions contemplated hereby. The Developer hereby represents and warrants that no violation of Section 2-156-030 (b) has occurred with respect to this Agreement or the transactions contemplated hereby.

SECTION 35. PATRIOT ACT CERTIFICATION.

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

As used in the above paragraph, an "Affiliate" shall be deemed to be a person or entity related to the Developer that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with Developer, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

SECTION 36. PROHIBITION ON CERTAIN CONTRIBUTIONS -MAYORAL EXECUTIVE ORDER NO. 2011-4.

Developer 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

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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 (1) after execution of this Agreement by Developer, (2) while this Agreement or any Other Contract is executory, (3) during the term of this Agreement or any Other Contract between Developer and the City, or (4) during any period while an extension of this Agreement or any Other Contract is being sought or negotiated.

Developer represents and warrants that from the later to occur of (1) May 16, 2011, and (2) 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: (1) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (2) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (3) 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, unless the City, in its sole discretion, elects to grant such an opportunity to cure. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Agreement, under any Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Developer intentionally 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 is 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 (1) formed under the authority of chapter 2-92 of the Municipal Code of Chicago; (2) entered into for the purchase or lease of real or personal property; or (3) for

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materials, supplies, equipment or services which are approved 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:

1. they are each other's sole domestic partner, responsible for each other's common welfare; and
2. neither party is married; and
3. the partners are not related by blood closer than would bar marriage in the State of Illinois; and
4. 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
5. two of the following four conditions exist for the partners:
 - a. The partners have been residing together for at least 12 months.
 - b. The partners have common or joint ownership of a residence.
 - c. The partners have at least two of the following arrangements:
 - i. joint ownership of a motor vehicle;
 - ii. a joint credit account;
 - iii. a joint checking account;
 - iv. a lease for a residence identifying both domestic partners as tenants.
 - d. 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.

SECTION 37. FAILURE TO MAINTAIN ELIGIBILITY TO DO BUSINESS WITH THE CITY.

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

SECTION 38. INSPECTOR GENERAL AND LEGISLATIVE INSPECTOR GENERAL.

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

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SECTION 39. 2014 CITY HIRING PLAN.

i) The City is subject to the June 16, 2014 "City of Chicago Hiring Plan" (as amended, the "2014 City Hiring Plan") entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United States District Court for the Northern District of Illinois). Among other things, the 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.

ii) 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.

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

iv) In the event of any communication to Developer by a City employee or City official in violation of subparagraph (ii) above, or advocating a violation of subparagraph (iii) above, Developer will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General (the "OIG"), and also to the head of the relevant City Department utilizing services provided under this Agreement. Developer will also cooperate with any inquiries by the OIG.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

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

CITY OF CHICAGO,
an Illinois municipal corporation and home rule
unit of government

By:
David Reifman
Acting Commissioner
Department of Planning and Development

[Developer]
an Illinois

By: _
Name:
Its:

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STATE OF ILLINOIS

COUNTY OF COOK

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that David Reifman, Acting Commissioner of the Department of Planning and Development of the City of Chicago, an Illinois municipal corporation, 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 being first duly sworn by me acknowledged that as said Acting Commissioner, he signed and delivered the instrument pursuant to authority given by the City of Chicago, as his free and voluntary act and as the free and voluntary act and deed of the City, for the uses and purposes therein set forth.

GIVEN under my notarial seal this

NOTARY PUBLIC

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STATE OF ILLINOIS COUNTY OF COOK

)
) SS.
)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, personally known to me to be the _____ of _____, an Illinois _____, 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, being first duly sworn by me, acknowledged that s/he signed and delivered the foregoing instrument pursuant to authority given by said corporation, as her/his free and voluntary act and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my notarial seal this _____ day of _____, 20 ____.

NOTARY PUBLIC

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EXHIBIT A TO RED EVELOPMENT AGREEMENT

LEGAL DESCRIPTION OF PROPERTY

(Subject to final title commitment and survey)

PARCEL 1:

THE SOUTH 264 FEET OF LOT 'A' AS MEASURED ON THE EAST LINE OF SAID LOT A' AND LOT 'B' OF SUTHERLAND'S SUBDIVISION OF LOT 4 IN ASSESSOR'S DIVISION OF THE WEST $\frac{1}{2}$ OF SECTION 33 AND THAT PART OF THE SOUTH EAST $\frac{1}{4}$ OF SECTION 32 LYING EAST OF THE CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD, ALL IN TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 2:

LOT 1 IN BIRKHOFF'S ADDITION TO AUBURN PARK, BEING A SUBDIVISION OF PART OF THE NORTHWEST $\frac{1}{4}$ AND PART OF THE SOUTHWEST $\frac{1}{4}$ OF SECTION 32, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PINS:

20-33-119-024-0000
001-0000 20-33-124-002-0000

20-33-124-

Commonly known as: 650 West 83rd Street, Chicago, Illinois

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EXHIBIT B TO REDEVELOPMENT AGREEMENT

NARRATIVE DESCRIPTION OF PROJECT

The anaerobic digester facility will be coupled with energy recovery technology and will consist of five buildings and four tanks for receiving and processing approximately 50,000 tons of organic waste per year. The facility will then process this waste to produce clean renewable energy in the form of biogas and nutrient-rich, solid and liquid fertilizer that is ideal for agricultural and garden applications.

The facility's structures may include a 18,500 sq. ft. raw materials receiving building with office space; a 25,000 sq. ft. ventilated primary ASP bunker and staging building; a 20,000 sq. ft. ventilated secondary ASP building; a 25,000 sq. ft. ventilated curing materials building; and a 15,000 sq. ft. Biogas Upgrading equipment building, along with the following tanks: a 305,000 cu. ft. Digestate/Gas Storage, 304,000 cu. ft. Digestate, a 27,000 cu. ft. Mixing and a 27,000 cu. ft. Storage tank. The structures will be positioned on the 9 acre site to facilitate an orderly and efficient production flow. The facility will include 20-car parking spaces, paved areas for the maneuvering and staging of trucks, water retention and landscaping areas and perimeter fencing.

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EXHIBIT C TO REDEVELOPMENT AGREEMENT

WORKING DRAWINGS AND SPECIFICATIONS

[To Come]

EXHIBIT D TO REDEVELOPMENT AGREEMENT FORM OF SUBORDINATION AGREEMENT

[Attached]

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This instrument prepared by and after recording
should be returned to:

City of Chicago
Department of Law, Real Estate Division 121 North
LaSalle Street, Room 600 Chicago, Illinois 60602

REDEVELOPMENT SUBORDINATION AGREEMENT

This Redevelopment Subordination Agreement ("Agreement") is executed and delivered
as of _____, 20____, by _____ [Insert name of Lender], a

[Insert type of entity and state of formation]

("Lender"), in favor of the City of Chicago, an Illinois municipal corporation (the "City").

WITNESSETH:

WHEREAS, _____, an Illinois _____ (the "Developer"), and the City, acting by and through its Department of Planning and Development, have entered into that certain Agreement for the Sale and Redevelopment of Land dated as of _____, 20____, and recorded with the Office of the Recorder of Deeds of Cook County, Illinois, on _____, 20____, as Document No. _____ - ("Redevelopment Agreement"), pursuant to which the City has agreed to sell and the Developer has agreed to purchase the real property legally described on Exhibit A attached hereto (the "Property"); and

WHEREAS, pursuant to the terms of the Redevelopment Agreement, the Developer has agreed to _____, as more specifically described in the Redevelopment Agreement (the "Project"); and

WHEREAS, as part of obtaining financing for the Project, the Developer and the Lender have entered into that certain Loan Agreement dated as of _____, 20____ (the "Loan Agreement"), pursuant to which the Lender has agreed to provide a loan in the principal amount of up to _____ Dollars (\$) (the "Loan"), which Loan is evidenced by a Promissory Note (the "Note") in said amount to be executed and delivered by the Developer to the Lender, and the repayment of the Loan is secured by certain liens and encumbrances on the Property pursuant to the Loan Agreement (all such agreements being referred to herein collectively as the "Loan Documents"); and

WHEREAS, pursuant to the Redevelopment Agreement, the Developer has agreed to be bound by certain covenants expressly running with the Property, as set forth in Sections 11, 13, 14 and 15 of the Redevelopment Agreement (the "City Encumbrances"); and

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WHEREAS, the Redevelopment Agreement requires that the Lender agree to subordinate its liens under the Loan Documents to the City Encumbrances.

NOW, THEREFORE, for good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Lender hereby agrees as follows:

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. Nothing herein, however, shall be deemed to limit any of the Lender's other rights or other priorities under the Loan Documents, including, without limitation, the Lender's rights to receive, and the Developer's obligation to make, payments and prepayments of principal and interest on the Note or to exercise the Lender's 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 (a) copies of any

notices of default which it may give to the Developer with respect to the Project pursuant to the Loan Documents, and (b) copies of waivers, if any, of the Developer's default in connection therewith. Neither the Developer nor any other third party is an intended beneficiary of this Section 2. Failure of the Lender to deliver such notices or waivers shall in no instance alter the rights or remedies of the Lender under the Loan Documents.

3. Waivers. No waiver shall be deemed to be made by the City of any of its 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 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 parties as set forth below by any of the following means: (a) personal service; (b) overnight courier; or (c) registered or certified first class mail, postage prepaid, return receipt requested:

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

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Chicago, Illinois 60602 Attn: Commissioner

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

If to the Lender:

Attn:

Any notice given pursuant to clause (a) hereof shall be deemed received upon such personal service. Any notice given pursuant to clause (b) shall be deemed received on the day immediately following deposit with the overnight courier. Any notice given pursuant to clause (c) shall be deemed received three (3) business days after mailing. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, demands or communications shall be given.

Exhibit A to Subordination Agreement

Legal Description

[To come]

PIN:

Commonly known as: , Chicago, Illinois 606

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OFFICE OF THE MAYOR

CITY OF CHICAGO

RAHM EMANUEL
MAYOR

October 28, 2015

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

Ladies and Gentlemen:

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

Your favorable consideration of these ordinances will be appreciated.

Mayor

Very truly yours,

JOSEPH A. MOORE

ward49@cityofchicago.org www.ward49.com <<http://ward49.com>> Alderman, 49th Ward 7356 North Greenview Avenue Chicago, Illinois 60626 telephone 773-338-5796

CITY COUNCIL

CITY OF CHICAGO COUNCIL CHAMBER

City Hall, Room 200 121 North LaSalle Street Chicago, Illinois 60602 Telephone 312-744-3067

COMMITTEE MEMBERSHIPS

HOUSING AND REAL ESTATE

Chairman

Budget and Government Operations

Committees Rules and Ethics

Education and Child Development

Finance

Health and Environmental Protection

Human Relations

Special Events, Cultural Affairs and Recreation

November 18, 2015

To the President and Members of the City Council:

Your Committee on Housing and Real Estate, for which a meeting was held on November 9, 2015, having had under consideration the ordinance introduced by Mayor Rahm Emanuel on September 24, 2015, this being negotiated sale of property located at 650 W. 83rd St., begs leave to recommend that Your Honorable Body Approve said ordinance transmitted herewith.

This recommendation was concurred in by a voice vote of all committee members present with five affirmative votes and three dissenting votes.

Respectfully submitted,

**Joseph A. Moore, chairman
Committee on Housing and Real
Estate**