

2 of 4 LHYNES # 80-56-919-D1



Doc#: 0708005198 Fee: \$128.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 03/21/2007 12:19 PM Pg: 1 of 53

This agreement was prepared by and
after recording return to:
Judith A. El-Amin, Esq.
City of Chicago Law Department
121 North LaSalle Street, Room 600
Chicago, IL 60602

BRYN MAWR REAL ESTATE PROPERTIES L.L.C.
REDEVELOPMENT AGREEMENT

This Bryn Mawr Real Estate Properties L.L.C. Redevelopment Agreement (this "Agreement") is made as of this 15th day of March, 2007, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("DPD"), and Bryn Mawr Real Estate Properties L.L.C. an Illinois limited liability company (the "Developer"). Capitalized terms not otherwise defined herein shall have the meaning given in Section 2.

RECITALS

A. **City Council Authority:** To induce redevelopment pursuant to provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq. (the "Act") the City Council of the City (the "the City Council") adopted certain ordinances on December 11, 1996 approving a redevelopment plan for the Bryn Mawr/Broadway Redevelopment Project Area (the "Redevelopment Area"), designating the Redevelopment Area as a "redevelopment project area"

Box 400-CTCC

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/ J

LIST OF EXHIBITS

Exhibit A	Legal Description of Redevelopment Area*
Exhibit B	Description of Project
Exhibit C	Legal Description of Property*
Exhibit D	Construction Requirements
Exhibit E-1	Project Budget*
Exhibit E-2	MBE/WBE Project Budget*
Exhibit F	Permitted Liens*
Exhibit G	Approved Prior Expenditures
Exhibit H	Requisition Form
Exhibit I	TIF-Funded Improvements*
Exhibit J	Subordination Agreement
Exhibit K	Opinion of Developer's Counsel
Exhibit L	Insurance Requirements

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

**BRYN MAWR REAL ESTATE PROPERTIES L.L.C.
REDEVELOPMENT AGREEMENT**

BY AND BETWEEN

THE CITY OF CHICAGO

AND

BRYN MAWR REAL ESTATE PROPERTIES L.L.C.

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under the Act, adopting tax increment allocation financing for the Area (collectively, the "TIF Ordinances"). The Redevelopment Area is legally described in Exhibit A hereto.

B. The Project: The Developer intends to undertake the redevelopment project described in Exhibit B hereto (the "Project") with respect to certain City-owned property, to be acquired by the Developer on the Closing Date, located within the Redevelopment Area and commonly known as 1100-1114 West Bryn Mawr, Chicago, Illinois and legally described on Exhibit C (the "Property"). The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement. The Project will be carried out in accordance with this Agreement and the City of Chicago Bryn Mawr/Broadway Redevelopment Project Area Tax Increment Financing Program Redevelopment Plan (the "Redevelopment Plan").

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

D. Prior TIF Financing: Pursuant to a note ordinance adopted by the City Council on June 4, 1997 (the "Note Ordinance"), the City pledged Incremental Taxes (as hereinafter defined) for the payment of redevelopment project costs in connection with the Bryn Mawr-Belle Shore Limited Partnership Redevelopment Agreement dated as of July 1, 1997, as follows: (i) an amount not to exceed \$7,620,873 to pay a portion of an FHA-insured mortgage loan (the "Interest Costs") and (ii) for the payment of principal and interest on City of Chicago \$1,800,000 Subordinate Tax Increment Allocation Note (Bryn Mawr/Broadway Redevelopment Project), Taxable Series 1997 (the "Note") of which \$ 738,472 in principal, plus interest, that becomes due and payable thereon until maturity, remained outstanding as of January 1, 2007.

Payment of the Interest Costs is secured by a pledge of First Lien Revenues, as defined in the Note Ordinance. The Note and any additional notes issued pursuant to the Note Ordinance are secured by a pledge of Pledged Revenues, as defined in the Note Ordinance. The pledge of Pledged Revenues is subject and subordinate to the prior pledge of First Lien Revenues in favor of the Interest Costs.

The Developer acknowledges that the Interest Costs and the Note are prior liens on the Redevelopment Area TIF Fund and that the Developer has no claim on any monies except for monies which are deposited into the General Account created pursuant to the Note Ordinance and which have not been designated for any other purpose under Section 9(e) of the Note Ordinance, and further subject to the conditions, limitations, requirements, terms and conditions of this Agreement. The Developer further acknowledges that pursuant to the Note Ordinance, the City, from time to time in the future, may issue additional Additional Bonds, Junior Lien Bonds or Refunding Bonds, as those terms are defined in the Note Ordinance (collectively referred to herein as the "Superior Lien Obligations") and if and when issued, payment of principal of, premium, if any, and interest on the Superior Lien Obligations would have a prior lien on the Pledged Revenues over any obligation created under this Agreement.

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

SECTION 1. RECITALS

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

SECTION 2. DEFINITIONS

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

"Affiliate" shall mean any person or entity directly or indirectly controlling, controlled by or under common control with the Developer. For purposes of this Agreement, and without in anyway limiting the foregoing sentence, Affiliate shall include an Illinois corporation (hereinafter referred to as the "Restaurant Corporation") through which the Nookies Restaurant is operated and the capital stock of which is held in whole or in part by the members of the Developer.

"Available Incremental Taxes" shall mean a portion of the Excess Incremental Taxes in any year in an amount equal to ninety percent (90%) of the Incremental Taxes attributable to the taxes levied on the Property deposited in the Redevelopment Area TIF Fund, as adjusted to reflect the amount of the City Fee described in Section 4.05 hereof. Subject to the prior pledge of Incremental Taxes described in Recital D, such Available Incremental Taxes may consist of the Incremental Taxes directly attributable to the Property or other Incremental Taxes as are legally available for commitment to the Project.

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

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

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

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

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

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

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

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

"Environmental Laws" shall mean any and all federal, state or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called "Superfund" or "Superlien" law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802 et seq.); (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6902 et seq.); (v) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vii) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (ix) the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code of Chicago (as defined below), including but not limited to the Municipal Code of Chicago, Section 7-28-390, 7-28-440, 11-4-1410, 11-4-1420, 11-4-1450, 11-4-1500, 11-4-1530, 11-4-1550, or 11-4-1560.

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

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

"Excess Incremental Taxes" shall mean Incremental Taxes which are received and deposited into the General Account on an annual basis during the calendar year and which are available for the payment of Redevelopment Project Costs under Section 9(e) of the Note Ordinance after satisfying the requirements of the Note Ordinance with regard to the Interest Costs and Note.

"General Account" shall mean the General Account established in accordance with Section 9(e) of the Note Ordinance.

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

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

"Lender Financing" shall mean funds borrowed by the Developer from lenders and used to pay for Costs of the Project otherwise secured by the Property.

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

"MBE/WBE Budget" shall mean the budget attached hereto as Exhibit E-2.

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

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

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

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

"Prohibited Use" shall mean a fast-food chain restaurant, a national chain business (other than a Kinko's copy shop, which shall be a permitted use), a branch bank, an employment agency, a currency exchange, a payday loan store, a pawn shop, a psychic or astrological or palm-reading business, a bar or liquor store (which prohibition shall not apply to a bar operated incidental to a restaurant and having an incidental liquor license), an adult bookstore, a massage parlor, a hotel or motel, an off-track betting facility, a trailer-storage yard, a scrap yard, or any use similar to the preceding uses or otherwise identified in writing by DPD. The Commissioner of DPD shall have discretion to consent to a waiver of any of the foregoing prohibited uses for any specific development, which discretion shall be in the Commissioner's sole discretion.

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

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

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

"Reimbursement Event" shall mean an act or omission of by the Developer or its Affiliate resulting in an Event of Default relating to: (i) a material misrepresentation to the City related to the Project that the City relied upon (as reasonably determined by the City) in its decision to provide City Funds for the Project or to pay any such City Funds to the Developer; (ii) a fraudulent act or omission related to the Project; (iii) a misappropriation of funds from the

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

"Restaurant Opening Date" shall mean the first date on which the Nookies Restaurant, as described in Exhibit B, has opened for business.

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

"Survey" shall mean a survey of the Property prepared in accordance with Minimum Standard Detail Requirements adopted for ALTA/ACSM Land Title Surveys (2005 Revision), including such Table A requirements as the City may reasonably require, dated within 45 days prior to the Closing Date, acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State of Illinois, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and updates thereof to reflect improvements to the Property resulting from the Project, if any).

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

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

"Title Company" shall mean Chicago Title Insurance Company

"Title Policy" shall mean a title insurance policy in the most recently revised ALTA or equivalent form, showing the Developer as the insured, noting the recording of this Agreement as an encumbrance against the Property, and a subordination agreement in favor of the City with respect to previously recorded liens against the Property related to Lender Financing, if any, issued by the Title Company.

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

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

SECTION 3. THE PROJECT

3.01 The Project. The Developer will commence the Project no later than six months after the Closing date and complete the Project no later than eighteen (18) months after the Closing Date, with the extension of any such dates subject to the sole discretion of the Commissioner of DPD.

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

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

3.04 Survey Update. On the Completion Date, the Developer shall provide an updated Survey if the Project added new improvements to the Property.

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

SECTION 4. FINANCING

4.01 Total Project Cost and Sources of Funds. The cost of the Project is estimated to be \$3,132,169, which the Developer will initially fund from the following sources:

Equity	\$ 716,792
Lender Financing	\$ 2,415,377

ESTIMATED TOTAL **\$3,132,169**

Such sources of funds shall be used to pay all Project costs because no City Funds will be paid until the City's issuance of a Certificate, and then only as specified in Section 4.02. Except for the City Funds, no other City financial assistance or incentives have been or will be provided for the Project.

4.02 Reimbursement from City Funds. City Funds may only be used to reimburse the Developer after the issuance of a Certificate for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs. Exhibit I sets forth the maximum amount of costs that may be reimbursed from City Funds for each line item therein, contingent upon receipt by the City of documentation satisfactory to DPD. City Funds shall not be paid to the Developer hereunder prior to the issuance of a Certificate. In no event shall the City reimburse the Developer in excess of the lesser of (a) \$300,000, or (b) 9.58% of the Project costs, as set out in the final Project Budget. Such payments shall be made after the issuance of a Certificate in five equal annual installments of \$60,000 upon the Developer's submission of a Requisition Form in accordance with Section 4.03, provided, however, that \$60,000 shall be paid prior to the Restaurant Opening Date from Available Incremental Taxes. Furthermore, in no instance shall the total City Funds paid under this Agreement, together with any other financial assistance provided to the Developer with respect to the Project (including, without limitation, the value of any tax assessment incentives, abatements or reductions), exceed twenty-five percent (25%) of the Project costs, as set out in the final Project Budget. The City shall have the right, in its sole discretion, to make payments in excess of \$60,000 and /or to shorten the five-year payment period if it so elects.

Subject to the terms and conditions of this Agreement, the City hereby agrees to provide funds solely from Available Incremental Taxes to reimburse the Developer for the cost of TIF-Funded Improvements up to the maximum amount determined under the preceding paragraph (the "City Funds"). City Funds derived from Available Incremental Taxes shall be available to pay such costs and allocated for such purposes only so long as:

- (i) The amount of the Available Incremental Taxes is sufficient to pay for such costs;
- (ii) The City has been paid the City Fee described in Section 4.05 below; and
- (iii) No Event of Default exists under this Agreement.

The Developer acknowledges and agrees that the City's obligation to pay any City Funds is contingent upon the fulfillment of the conditions set forth in parts (i), (ii) and (iii) above, as well

as the prior issuance of the Certificate (except for the one-time payment provided under the first paragraph of this Section 4.02) and the Developer's satisfaction of all other applicable terms and conditions of this Agreement, including, without limitation, compliance with the covenants in Section 8.05.

4.03 Requisition Form. On the Completion Date and on each September 30th (or such other date as the parties may agree to) thereafter and continuing throughout the Term of the Agreement, the Developer shall provide DPD with a Requisition Form, along with the documentation described therein. Requisition for reimbursement of TIF-Funded Improvements shall be made not more than one time per year (or as otherwise permitted by DPD). Upon DPD's request, the Developer shall meet with DPD to discuss any Requisition Form(s).

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

4.05 City Fee. Annually, the City may allocate an amount not to exceed ten percent (10%) of the Excess Incremental Taxes for payment of costs incurred by the City for the administration and monitoring of the Redevelopment Area, including the Project. Such fee shall be in addition to and shall not be deducted from or considered a part of the City Funds, and the City shall have the right to receive such funds prior to any payment of City Funds hereunder.

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

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

4.08 Sale of 2 City-Owned Real Property Parcels. The City agrees to sell and Developer agrees to purchase the lots located at 1100 and 1114 West Bryn Mawr Avenue (the "Property"), and legally described in Exhibit C, for \$1,295,000 total purchase price that shall be paid in cash in full by the Developer at Closing, subject to the following terms and conditions:

- (a) Form of Deed. The City will convey the Property to the Developer by quit claim deed ("Deed"), subject only to the terms of this Agreement and the following:
 - (i) The Redevelopment Plan for this Redevelopment Area.
 - (ii) The standard exceptions in an ALTA title insurance policy.
 - (iii) Taxes which are not yet due and owing.

(iv) Easements, encroachments, covenants and restrictions of record and not shown of record.

(v) Such defects which cannot reasonably be cured but will not affect the use or marketability of the Property.

(b) Title Commitment and Insurance. The City agrees to provide the Developer with a current title commitment issued by Chicago Title Insurance Company showing the City in title to the Property. The Developer will pay the cost of, and will be responsible for, obtaining any title insurance, extended coverage or endorsements it deems necessary.

(c) Survey. The Developer will be responsible for any survey it deems necessary.

(d) Real Estate Taxes. The City agrees to obtain the waiver of any delinquent real estate tax liens on the Property. The Developer will be responsible for all taxes accruing after the Closing.

(e) Recordation of Deed. The Developer, at its expense, will promptly record the Deed at the Office of the Cook County Recorder of Deeds.

4.09 Environmental Matters Concerning the Acquired Property.

(a) The City makes no covenant, representation or warranty as to the environmental condition of the Property or the suitability of the Property for any purpose whatsoever, and the Developer agrees to accept the Property "as is".

(b) It is responsibility of the Developer, at its sole cost and expense, to obtain a phase I environmental report prior to Closing. Prior to the Closing, the Developer, or the environmental consultant it retains to perform the phase I investigation, as the case may be, will have the right to request a right of entry for the purpose of inspecting the Property as part of such phase I investigation. If such a request is made, the City will grant the Developer and its environmental consultant a right of entry for such purpose. The granting of the right of entry, however, will be contingent upon the Developer or the environmental consultant it retains to perform the phase I investigation, as the case may be, obtaining all the following types and amounts of insurance: (x) Commercial general liability insurance with a combined single limit of not less that \$1,000,000.00 per occurrence for bodily injury, personal injury and property damage liability with the City named as an additional insured; (y) if applicable, automobile liability insurance with limits of not less that \$1,000,000.00 per occurrence, combined single limit for bodily injury and property damage; and (z) worker's compensation and occupational disease insurance in statutory amounts covering all employees and agents who are to perform any work on the Property. All insurance policies will be from insurance companies

authorized to do business in the State of Illinois, and will remain in effect until completion of all phase I environmental inspection activity on the Property. The Developer or the environmental consultant it retains to perform the phase I investigation, as the case may be, will deliver duplicate policies or certificates of insurance to the City prior to commencing any activity on the Property. The Developer expressly understands and agrees that any coverage and limits furnished by the Developer or the environmental consultant it retains to perform the phase I investigation, as the case may be, will in no way limit the Developer's liabilities and responsibilities stated in this Agreement.

(c) The Developer or the environmental consultant it retains to perform the phase I investigation, as the case may be, agrees to carefully inspect the Property prior to the commencement of any activity on the Property to make sure that such activity will not damage surrounding property, structures, utility lines or any subsurface lines or cables. The Developer will be solely responsible for the safety and protection of the public. The City reserves the right to inspect any work being done on the Property. The Developer's or the environmental consultant's activities on the Property prior to Closing will be limited to those reasonably necessary to perform the inspection work, if any, the Developer or the environmental consultant may wish to perform prior to Closing, or, subject to the terms of an agreed upon right of entry, any remediation work. Upon completion of the work, the Developer agrees to restore the Property to its original condition. The Developer will keep the Property free from any and all liens and encumbrances arising out of any work performed, materials supplied or obligations incurred by or for the Developer, and agrees to indemnify and hold the City harmless against any such liens.

(d) 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. If prior to the Closing, the Developer's environmental consultant determines that contamination exists on the Property to such extent that the parties agree that the estimated cost of remediation (such estimated cost being determined by the consultant) is too excessive for the Developer, the Developer may declare these Real Estate Purchase Sections (Sections 4.08 and 4.09) null and void by giving written notice thereof to the City. The Developer agrees that a request to terminate the Real Estate Purchase Sections will not be made until all reports concerning the condition of the Property have been reviewed by the City.

(e) If after the Closing, the environmental condition of the Property is not in all respects entirely suitable for the use to which the Property is to be utilized, it will be the sole responsibility and obligation of the Developer to take such action as is necessary to put the Property in a condition which is suitable for the intended use of the Property.

SECTION 5. CONDITIONS PRECEDENT

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

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

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

5.03 Financing. The Developer must have furnished proof reasonably acceptable to the City that it has Equity and Lender Financing to complete the Project. Any liens against the Project in existence at the Closing Date must have been subordinated to this Agreement pursuant to a Subordination Agreement in the form of Exhibit J to be recorded, at the expense of the Developer, with the Recorder's Office of Cook County.

5.04 Acquisition and Title. The Developer must have furnished the City with a copy of the Title Policy for the Property, certified by the Title Company, showing the Developer as the named insured, along with copies of all Schedule B title exception documents. The Title Policy must be dated as of the Closing Date and contain only those title exceptions listed on Exhibit F hereto and evidence the recording of this Agreement. The Title Policy must contain such endorsements as may be required by Corporation Counsel, including but not limited to an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.1 with parking), contiguity, location, access and survey. If the Project involves any acquisition of real property, the Developer must have provided DPD with documentation related to such acquisition.

5.05 Evidence of Clean Title. The Developer, at its own expense, must have provided the City with searches under its name and the names of its two members as follows:

Secretary of State	UCC search
Secretary of State	Federal tax search
Cook County Recorder	UCC search
Cook County Recorder	Federal tax search
Cook County Recorder	State tax search
Cook County Recorder	Memoranda of judgments search
U.S. District Court	Pending suits and judgments
Clerk of Circuit Court, Cook County	Pending suits and judgments showing no liens against the Developer.

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

5.07 Insurance. The Developer, at its own expense, must have insured the Property in accordance with Exhibit L hereto, and delivered to DPD actual policies or Accord Form 27 certificates evidencing the required coverages. However, prior to the Closing Date, DPD will accept evidence of commercial general liability insurance and property insurance coverage, but prior to construction of the Project, including any remedial work, the Developer must provide DPD with evidence of the additional and/or updated insurance certificates as required by Exhibit L hereto.

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

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

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

5.11 Documentation. The Developer must have provided documentation to DPD, satisfactory in form and substance to DPD, with respect to the planned operations of the Nookies restaurant.

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

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

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

SECTION 6. AGREEMENTS WITH CONTRACTORS AND CONSTRUCTION REQUIREMENTS

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

SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION

7.01 Certificate of Completion of Construction or Rehabilitation. Upon completion of the construction of the Project in accordance with the terms of this Agreement and upon the Developer's written request, DPD shall either issue to the Developer a Certificate in recordable form certifying that the Developer has fulfilled its obligation to complete the Project (exclusive of the operations covenant in Section 8.05) in accordance with the terms of this Agreement or a written statement detailing the measures which must be taken in order to obtain the Certificate. DPD may require a single inspection by an inspecting architect hired at the Developer's expense to confirm the completion of the Project. The Developer may resubmit a written request for a Certificate upon completion of such measures.

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

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

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

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

SECTION 8. COVENANTS/REPRESENTATIONS/WARRANTIES OF THE DEVELOPER

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

(a) the Developer is an Illinois limited liability company duly organized, validly existing, qualified to do business in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

(b) the Developer has the right, power and authority to enter into, execute, deliver and perform this Agreement;

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

(d) during the Term of this Agreement, the Developer will continue to own good, indefeasible and merchantable fee simple title to the Property (and all improvements thereon), or a leasehold interest therein, free and clear of all liens except for the Permitted Liens and such other matters as DPD may consent to in writing;

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

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

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

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

(i) any financial statements provided to the City are and will be, at the time of submittal, true, complete and correct in all material respects;

(j) the Developer shall not directly or indirectly do any of the following without the prior written consent of DPD, which consent shall be in DPD's sole discretion: (1) be a party to any merger, liquidation or consolidation; (2) sell (including, without limitation, any sale and leaseback), transfer, convey, lease or otherwise dispose of all or substantially all of its assets or any portion of the Property; or (3) enter into any transaction that would cause a material and detrimental change to the Developer's financial condition. Notwithstanding anything to the contrary contained in the foregoing sentence or this Agreement, neither the Restaurant Corporation, nor its shareholders shall be restricted from engaging in any transaction or series of transactions (including without limitation, any dissolution, merger, consolidation, or other reorganization of the Restaurant Corporation, or any issuance, sale, gift, transfer or redemption of any capital stock of the Restaurant Corporation, or any combination of any of the foregoing transactions) provided such transaction or transactions does not result in the transfer of control of the Restaurant Corporation. The term "control" as used herein means the power to directly or indirectly direct or cause the direction of the management or policies of the Restaurant Corporation;

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

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

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

(n) 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 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 (i) after execution of this Agreement by Developer, (ii) while this Agreement or any Other Contract is executory, (iii) during the term of this Agreement or any Other Contract between Developer and the City, or (iv) 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 of (i) February 10, 2005, or (ii) the date the City approached the Developer or the date the Developer approached the City, as applicable, regarding the formulation of this Agreement, no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee.

Developer agrees that it shall not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (c) bundle or solicit others to bundle contributions to the Mayor or to his political fundraising committee.

Developer agrees that the Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 05-1 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No.05-1.

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. 05-1 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. 05-1 prior to the closing of this Agreement, the City may elect to decline to close the transaction contemplated by this Agreement.

For purposes of this provision:

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

“Other Contract” means any other agreement with the City of Chicago to which Developer is a party that is (i) formed under the authority of chapter 2-92 of the Municipal Code of Chicago; (ii) entered into for the purchase or lease of real or personal property; or (iii) for 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:

- (A) they are each other's sole domestic partner, responsible for each other's common welfare; and
- (B) neither party is married; and
- (C) the partners are not related by blood closer than would bar marriage in the State of Illinois; and
- (D) each partner is at least 18 years of age, and the partners are the same sex, and the partners reside at the same residence; and
- (E) two of the following four conditions exist for the partners:
 - 1. The partners have been residing together for at least 12 months.
 - 2. The partners have common or joint ownership of a residence.
 - 3. The partners have at least two of the following arrangements:
 - a. joint ownership of a motor vehicle;
 - b. a joint credit account;
 - c. a joint checking account;
 - d. a lease for a residence identifying both domestic partners as tenants.
 - 4. Each partner identifies the other partner as a primary beneficiary in a will.

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

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

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

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

8.05 Leasing and Occupancy Covenants. The Developer covenants that for a period of five years from the Restaurant Opening Date, the Developer or the Restaurant Corporation shall continuously operate the Nookies Restaurant. If Nookies fails to operate during such five year period, then an immediate Event of Default shall exist. Notwithstanding such Event of Default or Section 12.02, the City shall not be entitled to terminate this Agreement for a period of eighteen (18) months from the date of such breach (assuming no other Event of Default exists hereunder which would entitle the City to terminate the Agreement), but the City shall not make any further payments of City Funds. If, during such eighteen (18) months cure period, the Developer or the Restaurant Corporation re-opens Nookies or the Developer relets the restaurant space to any commercial, retail or restaurant tenant that does not engage in a Prohibited Use and is reasonably acceptable to DPD and such replacement tenant opens for operations, the Developer shall have cured such Event of Default and shall thereafter again be entitled to payment of City Funds (and, if necessary, the five-year payment period shall be extended to permit full payment of such City Funds). The cure period provided for in this Section 8.05 is a one-time right.

During the Term of the Agreement, the Developer shall, at the time of filing the annual Requisition Form, provide DPD with a notarized affidavit certifying to its compliance with this Section 8.05 for the 12 month period ending the day prior to the date of such filing date of such certificate. The covenants set forth in this Section 8.05 shall run with the land and be binding upon any permitted transferee, if any, for the period set forth in the first paragraph of this Section 8.05.

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

Developer for such costs using City Funds, or otherwise), upon DPD's request, prior to any such disbursement.

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

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

8.09 Financial Statements. The Developer shall provide DPD with financial statements for each fiscal year within 90 days of the close of such fiscal year and, at DPD's request, shall provide such interim statements as DPD may require.

8.10 Insurance. The Developer shall provide and maintain during the Term of the Agreement, and cause other applicable parties to provide and maintain, the insurance coverages specified in Exhibit L.

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

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

8.13 Recording and Filing. The Developer shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed against the Property in the Recorder's Office of Cook County. If the Permitted Liens include any existing mortgages, such mortgagee must execute a subordination agreement in the form of Exhibit J.

8.14 Real Estate Provisions; Governmental Charges. Subject to the next paragraph, the Developer will pay when due all Governmental Charges (as defined below) which are assessed or imposed upon the Developer, the Property or the Project. "Governmental Charge" shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division,

agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances, including, but not limited to, general real estate taxes.

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

8.15 Survival of Covenants. All warranties, representations, covenants and agreements of the Developer contained in this Section 8 and elsewhere in this Agreement shall be true, accurate and complete at the time of the Developer's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and (except as provided in Section 7 hereof upon the issuance of a Certificate) shall be in effect throughout the Term of the Agreement.

SECTION 9. ENVIRONMENTAL MATTERS

The Developer hereby represents and warrants to the City that it has conducted environmental studies sufficient to conclude that the Project may be constructed, completed and operated in accordance with the requirements of all Environmental Laws and this Agreement. The Developer agrees to release the City harmless from any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City and relating to the Project or the Property, and hereby waives any claims with respect thereto. The City releases the Developer and its Affiliates (but not any other parties, including the Developer's successors in title) from all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City and relating to the Project or the Property, and hereby waives all claims against Developer, if any, with respect thereto.

The Developer acknowledges that the City has previously enrolled the Property in the State of Illinois Site Remediation Program, 415 ILCS 5/58.1, et seq., for purposes of obtaining a No Further Remediation Letter ("NFRL") with respect to the Property. The City has previously caused its consultant to prepare that certain "Revised Focused Site Investigation Report" dated January 30, 2006, and that certain "Remedial Objectives Report and Remedial Action Plan" dated January 30, 2006, which reports have been supplemented by certain subsequent correspondence between the City and the State of Illinois Environmental Protection Agency ("IEPA), including the "Response to IEPA Comments Letter Dated December 13, 2006" dated January 30, 2006, the "Response to RELPE Comments on FSIR and FOR/RAP" dated June 14, 2006 and the "Response to RELPE Comments dated July 26, 2006" dated August 28, 2006 (the reports and such supplementary correspondence, collectively, the "SRP Reports"). The IEPA has reviewed the SRP Reports and, subject to completion of the remediation work set forth

therein (which shall primarily consist of certain building foundation repair work, so that such building foundation shall serve as the engineered barrier), preparation of a Remediation Action Completion Report ("RACR"), and final approval by the IEPA, has agreed to issue an NFRL with respect to the Property in the form of Exhibit K to this Agreement.

The Developer acknowledges that after the Closing Date, any further remediation work required under the Illinois Site Remediation Program or otherwise necessary to obtain the NFRL shall be performed by the Developer at the Developer's sole cost and expense. Furthermore, the Developer, at the Developer's sole cost and expense, shall be responsible for preparing and submitting the RACR, as well as the payment of any review fees or costs associated with any IEPA or other review of such report. The Developer shall submit the RACR to the City's Department of Environment ("DOE") for its review and approval prior to submission of such report to the IEPA. DOE agrees to complete the "Remediation Applicant" section of the required IEPA DRM-2 Form that will accompany submittal of the RACR and then send such form to the Developer's environmental consultant for signature and stamping of the consultant's seal. Upon such finalization, the Developer shall submit the RACR and such form to the IEPA. Upon the IEPA's issuance of the NFRL, the City shall complete the Property Owner Certification for the NFRL under the Site Remediation Program Form and submit such form to the Developer for signature. The Developer shall be responsible for recording the NFRL along with the Property Owner Certification of the NFRL under the Site Remediation Program Form.

For administrative purposes only, the City and Developer agree that, notwithstanding the City's conveyance of the Property to the Developer and the Developer's assumption of responsibility for completing any necessary remediation work and the preparation, submission and processing of the RACR (subject to the City's cooperation as described above), the City shall remain the "Remediation Applicant." The City shall deliver any notification letters required under applicable law to any adjoining property owners legally entitled to such notification.

SECTION 10. INDEMNIFICATION

Except as otherwise provided in Section 9 hereof, the Developer agrees to indemnify, pay, defend and hold the City, and its elected and appointed officials, employees, agents and affiliates (individually an "Indemnitee," and collectively the "Indemnitees") harmless from and against, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (and including without limitation, the reasonable fees and disbursements of counsel for such Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnities shall be designated a party thereto), that may be imposed on, suffered, incurred by or asserted against the Indemnitees in any manner directly or indirectly relating or arising out of this Agreement or the Project. The provisions of the undertakings and indemnification set out in this Section 10 shall survive the termination of this Agreement.

SECTION 11. MAINTAINING RECORDS/RIGHT TO INSPECT

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

SECTION 12. DEFAULT AND REMEDIES

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

(a) the failure of the Developer to comply with any covenant or obligation, or the breach by the Developer of any representation or warranty, under this Agreement or any related agreement;

(b) the commencement of any bankruptcy, insolvency, liquidation or reorganization proceedings under any applicable state or federal law, or the commencement of any analogous statutory or non-statutory proceedings involving the Developer; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;

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

(d) the entry of any judgment or order against the Developer or the Property which remains unsatisfied or undischarged and in effect for sixty (60) days after such entry without a stay of enforcement or execution;

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

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

(g) the occurrence of any Reimbursement Event.

12.02 **Remedies.** Subject to the one-time cure right provided in Section 8.05 and the right to cure provided in Section 12.03, upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements, and may suspend disbursement of City Funds. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy. However, the City shall not be entitled to recover any City Funds previously paid to the Developer unless the Event of Default involves a Reimbursement Event.

12.03 **Curative Period.** In the event the Developer fails to perform any covenant or obligation or breaches any representation or warranty which the Developer is required to perform under this Agreement, an Event of Default shall not be deemed to have occurred unless the Developer has failed to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, the Developer shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured. No such cure period, however, shall apply to Events of Default described in Section 12(b), (c), (d), (e) or (f), which defaults shall have the cure periods described therein, if any. In addition, no cure period shall apply to any Reimbursement Event or to any default arising from a breach of operations covenant in Section 8.05 and such breach shall be an immediate Event of Default.

SECTION 13. MORTGAGING OF THE PROJECT

All mortgages or deeds of trust in place as of the date hereof with respect to the Property or any portion thereof are listed on Exhibit F hereto. No mortgagee shall have the right to succeed to the Developer's rights under this Agreement unless it complies with the first sentence of Section 15.15 hereof.

SECTION 14. NOTICE

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

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

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

If to the Developer: Bryn Mawr Real Estate Properties L.L.C.
1746 North Wells Street
Chicago, Illinois 60614

With Copies To: Dan Hill, Esq.
Stotis & Baird Chartered
200 W. Jackson Boulevard, Suite 1050
Chicago, Illinois 60606

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

SECTION 15. MISCELLANEOUS

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

15.02 Entire Agreement. This Agreement (including each Exhibit attached hereto, which is hereby incorporated herein by reference) constitutes the entire Agreement between the

parties hereto and it supersedes all prior agreements, negotiations and discussions between the parties relative to the subject matter hereof.

15.03 Limitation of Liability. No member, official or employee of the City shall be personally liable to the Developer or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the Developer from the City or any successor in interest or on any obligation under the terms of this Agreement.

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

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

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

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

15.08 Headings. The paragraph and section headings contained herein are for convenience only and are not intended to limit, vary, define or expand the content thereof.

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

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

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

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

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

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

15.15 Assignment. The Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City, which consent shall be in the City's sole discretion and which, if granted, may be conditioned upon, among other things, the assignee's assumption of all of the Developer's obligations under this Agreement. The foregoing limitation shall not prevent the Developer from collaterally assigning to a lender that is also providing financing for the Project the Developer's right to receive the payment of City Funds as security for such lender financing. The Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part. Notwithstanding anything to the contrary contained in the foregoing sentence or this Agreement, neither the Restaurant Corporation, nor its shareholders shall be restricted from engaging in any transaction or series of transactions (including without limitation, any dissolution, merger, consolidation, or other reorganization of the Restaurant Corporation, or any issuance, sale, gift, transfer or redemption of any capital stock of the Restaurant Corporation, or any combination of any of the foregoing transactions) provided such transaction or transactions does not result in the transfer of control of the Restaurant Corporation. The term "control" as used herein means the power to directly or indirectly direct or cause the direction of the management or policies of the Restaurant Corporation;

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

parties any remedy, claim, right of reimbursement or other right.

15.17 Force Majeure. Neither the City nor the Developer nor any successor in interest to either of them shall be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder. The individual or entity relying on this section with respect to any such delay shall, upon the occurrence of the event causing such delay, immediately give written notice to the other parties to this Agreement. The individual or entity relying on this section with respect to any such delay may rely on this section only to the extent of the actual number of days of delay effected by any such events described above.

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

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

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

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

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

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

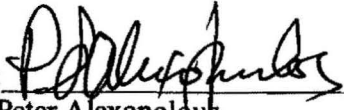
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IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be executed on or as of the day and year first above written.

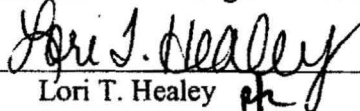
L.L.C.,

BRYN MAWR REAL ESTATE PROPERTIES

an Illinois limited liability company

By: 
Peter Alexopoulos
Its Manager

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

By: 
Lori T. Healey
Commissioner

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

I, DANIEL S. HILL, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Peter Alexopolous, personally known to me to be a Managing Member of Bryn Mawr Real Estate Properties L.L.C., an Illinois limited liability company (the "Developer"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the Members of the Developer, as his/her free and voluntary act and as the free and voluntary act of the Developer, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 5 day of MARCH, 2007.

[Signature]
Notary Public

My Commission Expires _____



STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

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

GIVEN under my hand and notarial seal this 15th day of MARCH, 2007.

Ronald Mohammed

Notary Public

(SEAL)

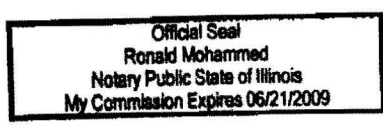


EXHIBIT A

Legal Description of the Redevelopment Area

See Attachment A-1

Street Boundary Description Of The Area.

Starting at a point on the southwest corner of 5251 North Winthrop Avenue; heading north to the southwest corner of 5401 North Winthrop Avenue; heading west to the east line of the alley between North Winthrop Avenue and the C.T.A. tracks; heading north to the southwest corner of 1111 West Bryn Mawr Avenue; heading east to the southeast corner of 1101 West Bryn Mawr Avenue; heading south approximately 100 feet along the west line of North Winthrop Avenue; heading east approximately 237 feet to the east line of the alley between North Winthrop Avenue and North Kenmore Avenue; heading north approximately 25 feet; heading east approximately 215 feet to the east line of North Kenmore Avenue; heading north approximately 75 feet along the east line of North Kenmore Avenue to the southwest corner of 1019 - 1030 West Bryn Mawr Avenue; heading east approximately 150 feet to the west line of the alley between North Kenmore Avenue and North Sheridan Road; heading south approximately 50 feet along the west line of the alley between North Kenmore Avenue and North Sheridan Road; heading east approximately 245 feet to the east line of North Sheridan Road; heading north approximately 330 feet along the east line of North Sheridan Road; heading west approximately 240 feet to the west line of the alley between North Sheridan Road and North Kenmore Avenue; heading south approximately 22 feet along the west line of the alley between North Sheridan Road and North Kenmore Avenue to the northeast corner of 1018 - 1030 West Bryn Mawr Avenue; heading west approximately 406 feet; heading south approximately 25 feet; heading west approximately 125 feet to the northwest corner of 1052 - 1068 West Bryn Mawr Avenue; heading north approximately 87 feet along the east line of North Winthrop Avenue; heading west approximately 231 feet to the west line of the alley between North Winthrop Avenue and the C.T.A. tracks; heading

south approximately 100 feet along the west line of the alley between North Winthrop Avenue and the C.T.A. tracks; heading west approximately 50 feet to the east line of 1118 -- 1126 West Bryn Mawr Avenue; heading north approximately 118 feet along the east line of 1118 -- 1126 West Bryn Mawr Avenue to the north line of the alley between West Bryn Mawr Avenue and 5619 -- 5627 North Broadway; heading west approximately 250 feet to the southwest corner of 5619 -- 5627 North Broadway; heading north approximately 100 feet along the east line of North Broadway; heading west approximately 137 feet to the corner of the bend in the alley between North Ridge Road and West Hollywood Avenue; heading generally northwest approximately 144 feet along the north line of the alley between North Ridge Road and West Hollywood Avenue; heading generally southwest approximately 212 feet to the northwest corner of 5626 North Ridge Road; heading generally southeast approximately 150 feet to the northwest corner of 5610 North Ridge Road; heading generally southwest approximately 50 feet along the west line of 5610 North Ridge Road; heading generally northwest approximately 77 feet to the bend on the north line of 1218 -- 1232 West Bryn Mawr; heading west approximately 87 feet to the northwest corner of 1218 -- 1232 West Bryn Mawr Avenue; heading south approximately 181 feet to the northeast corner of 5556 North Magnolia Avenue; heading east approximately 188 feet along the south line of West Bryn Mawr Avenue to the northeast corner of 5553 -- 5559 North Magnolia Avenue; heading south approximately 520 feet along the west line of the alley between North Broadway and North Magnolia Avenue to the north line of 5500 -- 5506 North Broadway; heading east approximately 130 feet along the north line of 5500 -- 5506 North Broadway to the northeast corner of 5500 -- 5506 North Broadway; heading south approximately 88 feet to the southeast corner of 5500 -- 5506 North Broadway (northwest corner of the intersection of North Broadway and West Catalpa Avenue); heading west approximately 144 feet along the north line of West Catalpa Avenue; heading south approximately 850 feet along the west line of the alley between North Magnolia Avenue and North Broadway to the northeast corner of 5351 North Magnolia Avenue; heading east approximately 150 feet along the south line of 5350 North Broadway to the west line of North Broadway; heading north approximately 15 feet along the west line of North Broadway; heading east approximately 112 feet to the east line of North Broadway on the northwest corner of the vacated alley between 5345 -- 5347 North Broadway and 5351 -- 5353 North Broadway; heading east approximately 150 feet along the north line of the vacated alley between 5345 -- 5347 North Broadway and 5351 -- 5353 North Broadway to the southeast corner of 5351 -- 5353 North Broadway; heading north approximately 100 feet along the west line of the vacated alley between North Broadway and the C.T.A. tracks to the northeast corner of 5355 -- 5357 North Broadway; heading east approximately 100 feet along the south line of West Balmoral Avenue to the west line of the C.T.A. tracks; heading south approximately 606 feet along the west line of the C.T.A. tracks to the southeast corner of the Jewel parking lot located at

5301 - 5325 North Broadway; heading east approximately 50 feet to the west line of the alley between the C.T.A. tracks and North Winthrop Avenue; heading south approximately 175 feet along the west line of the alley between the C.T.A. tracks and North Winthrop Avenue; heading east approximately 169 feet along the south line of 5250 North Winthrop Avenue to the west line of North Winthrop Avenue; and heading east approximately 68 feet to the point of origin at the southwest corner of 5251 North Winthrop Avenue.

EXHIBIT B

Description of the Project

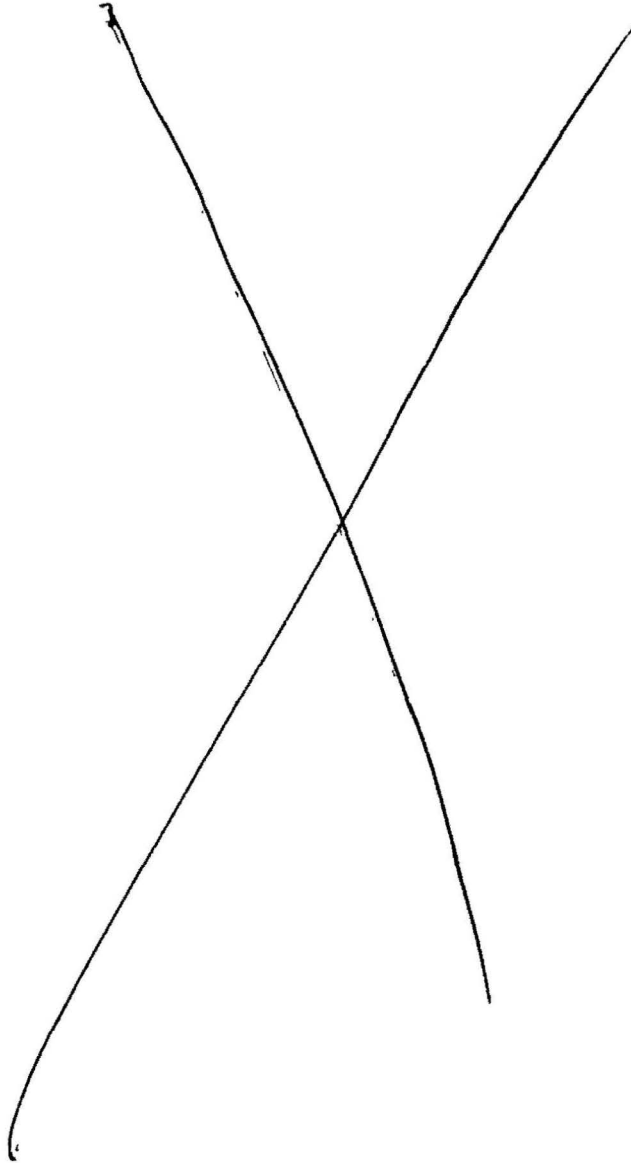


EXHIBIT C

Legal Description of Property

PARCEL 1:

LOTS 10 to 12 (EXCEPT THE EAST 50 FEET OF SAID LOTS) IN BLOCK 9 IN COCHRAN'S ADDITION TO EDGEWATER, A SUBDIVISION OF THE SOUTH 1946 FEET OF THE WEST 1320 FEET THEREOF OF THE EAST FRACTIONAL HALF OF SECTION 5, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Street Address:
1114 West Bryn Mawr

P.I.N.: 14-05-408-023-0000

PARCEL 2:

THE EAST 50 FEET OF LOTS 10, 11, AND 12 IN BLOCK 9 OF COCHRAN'S ADDITION TO EDGEWATER, A SUBDIVISION OF THE SOUTH 1946 FEET OF THE WEST 1320 FEET OF THE EAST FRACTIONAL 1/2 OF SECTION 5, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Street Address:
1100 West Bryn Mawr

P.I.N.: 14-05-408-024-0000

EXHIBIT D

Construction Requirements

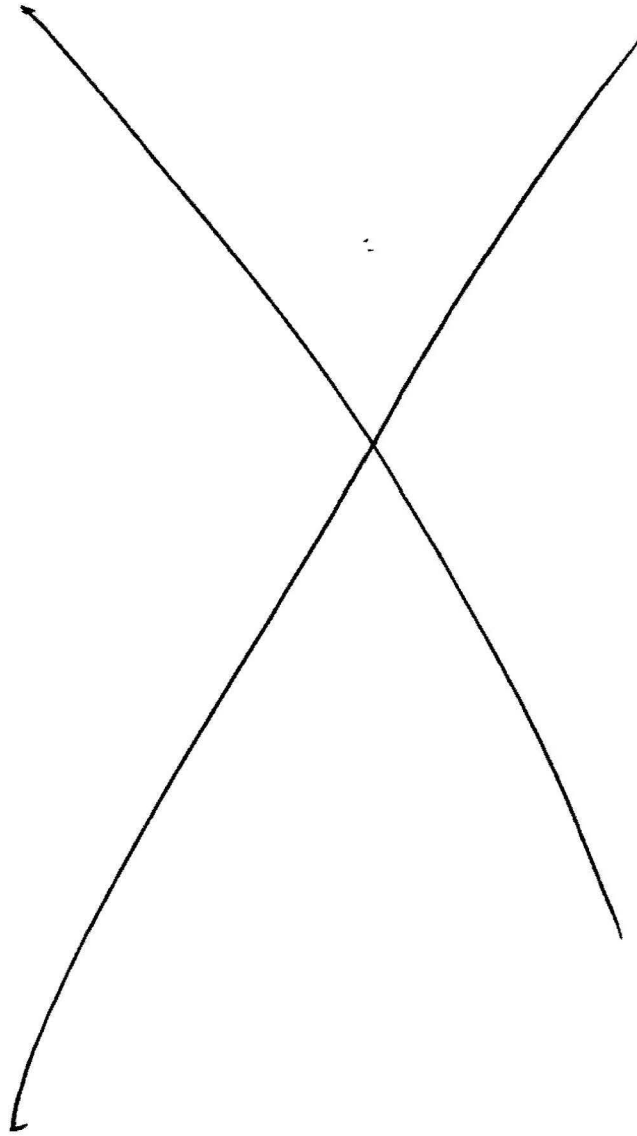


EXHIBIT E-1

Project Budget

Purchase of Property	\$1,295,000
Site Improvements	70,000
Property Improvements	847,069
Restaurant Build-Out	590,000
Construction Period Interest	180,400
Contingency and Other Costs	<u>149,700</u>
TOTAL	\$3,132,169

EXHIBIT E-2

MBE/WBE Project Budget

Property Improvements	\$ 847,069
Restaurant Build-Out	174,850*
Professional Fees	47,000
Demolition/Site Prep	40,000
On-Site Improvement/Landscaping	20,000
Off-Site Public Improvements	10,000
Total	\$1,138,919

*This amount may be reduced at the sole discretion of DPD should the equipment or furniture costs be reduced.

EXHIBIT F

Permitted Liens

1. Liens or encumbrances against the Property:

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

2. *B. THOSE MORTGAGE LIENS AS SET FORTH ON SCHEDULE A OF THE OWNER'S TITLE POLICY*
Liens or encumbrances against the Developer or the Project, other than liens against the Property, if any: none.

*SO
AE*

EXHIBIT G

Approved Prior Expenditures

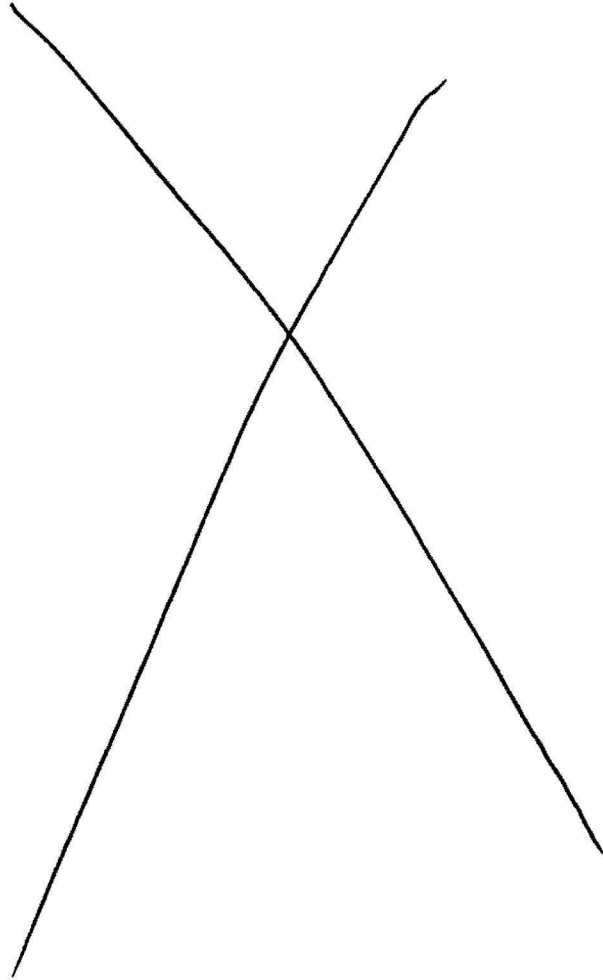


EXHIBIT H

Requisition Form

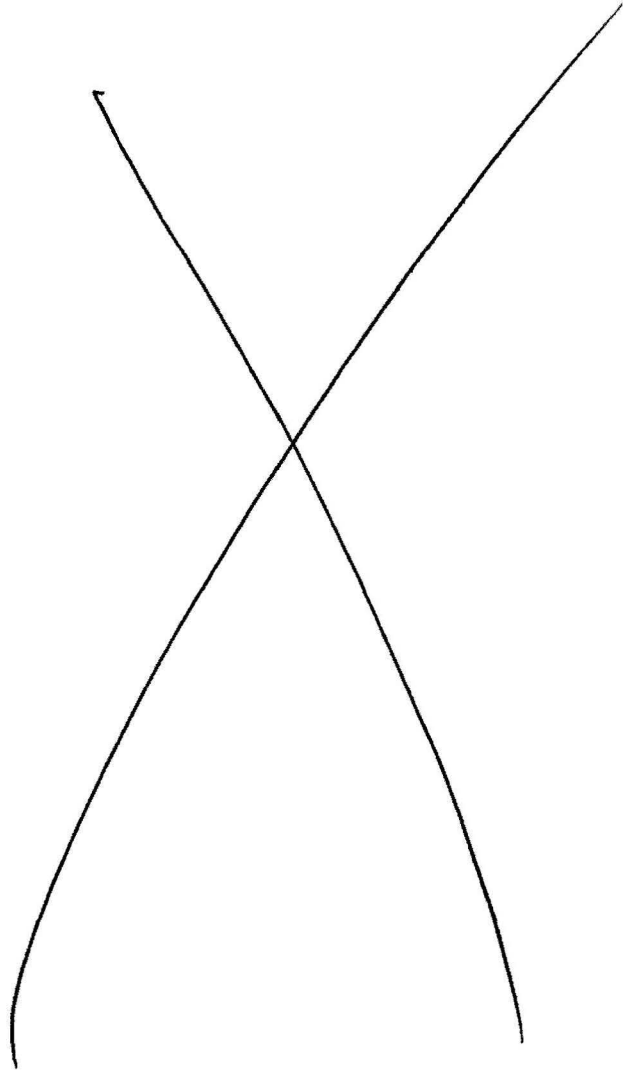


EXHIBIT I
TIF-Funded Improvements

<u>Line Item</u>	<u>Cost</u>
Acquisition	\$300,000
TOTAL	\$300,000

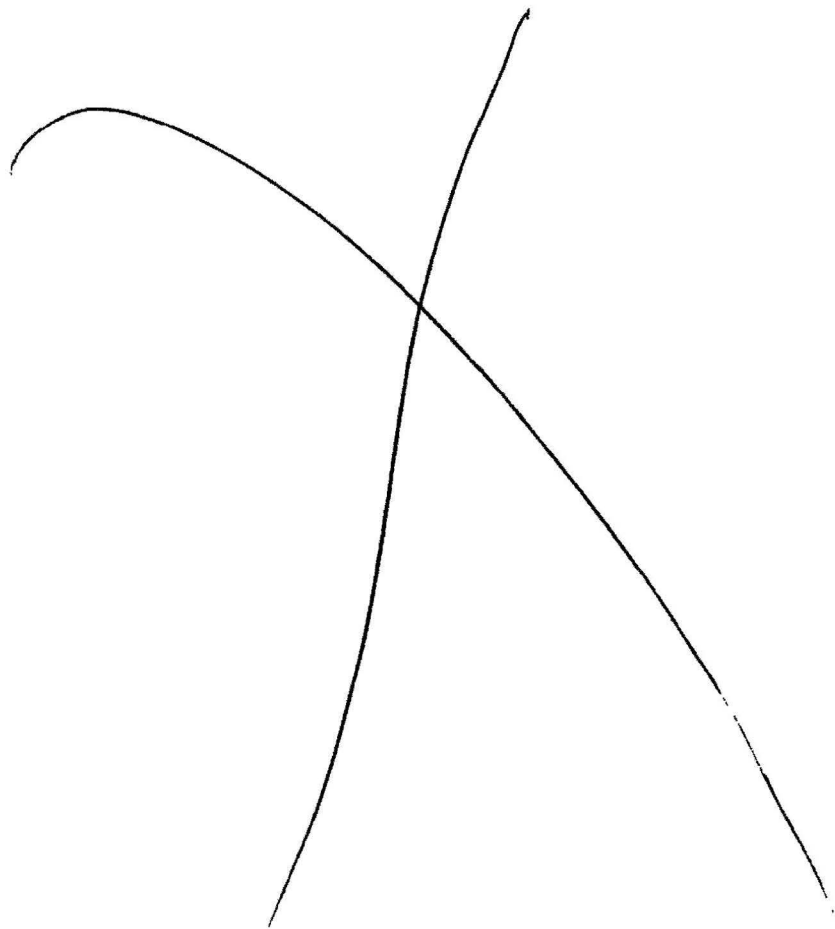


EXHIBIT J

Form of Subordination Agreement

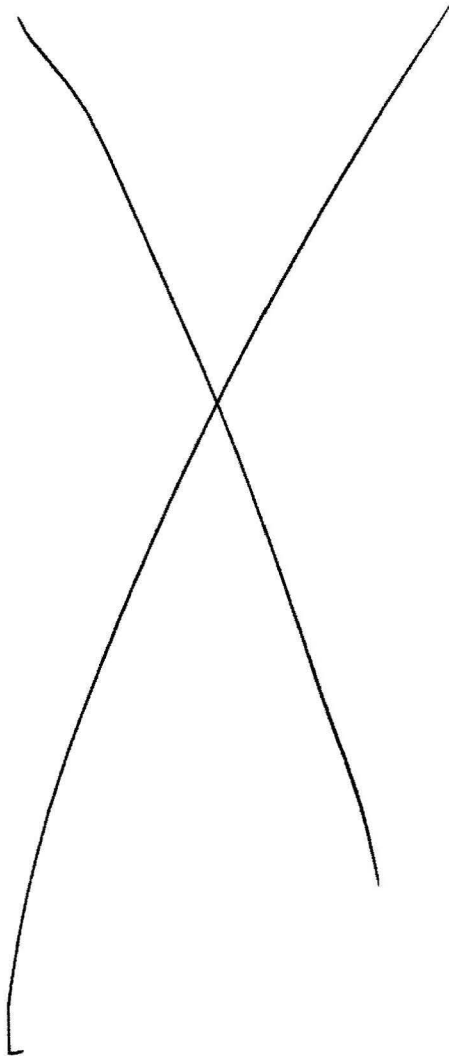


EXHIBIT K

Opinion of Developer's Counsel

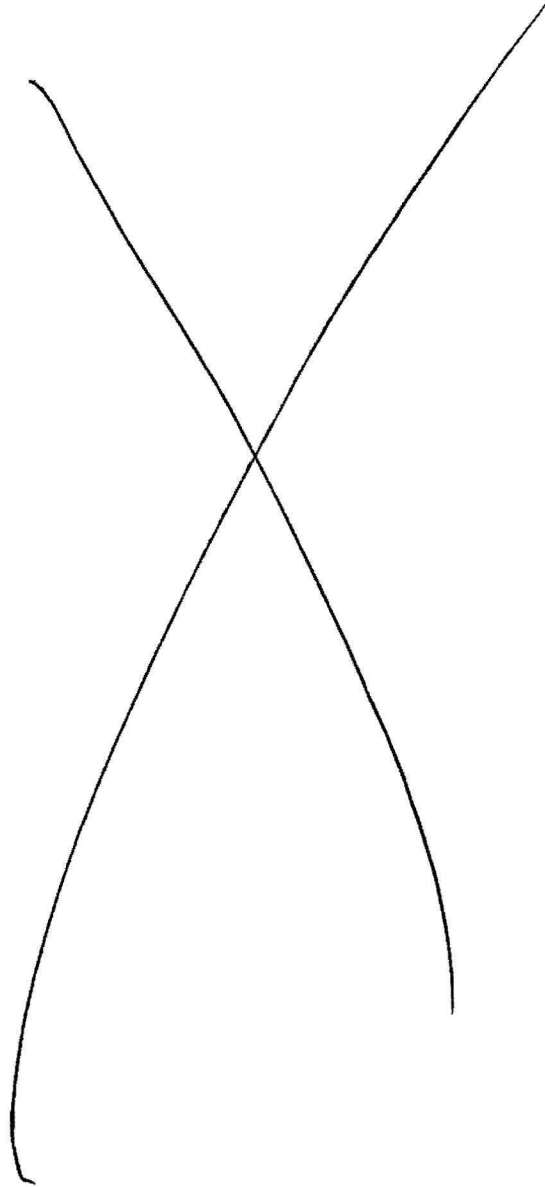


EXHIBIT L

Insurance Requirements
(Revised 2/02 per J. Opoka)

