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GREATER WEST TOWN COMMUNITY DEVELOPMENT PROJECT
REDEVELOPMENT AGREEMENT

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BY AND AMONG

THE CITY OF CHICAGO

AND

GREATER WEST TOWN COMMUNITY DEVELOPMENT PROJECT

AND

GWT SPE, LLC

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

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

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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

GREATER WEST TOWN COMMUNITY DEVELOPMENT PROJECT
REDEVELOPMENT AGREEMENT

This Greater West Town Community Development Project Redevelopment Agreement (this "Agreement") is made as of this 10th day of September, 2009, by and among the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Community Development ("DCD"), and Greater West Town Community Development Project, an Illinois not-for-profit corporation and a 501(c)(3) ("GWT") and GWT SPE, LLC, an Illinois limited liability company, with GWT as its sole member (the "**Company**") and GWT are collectively referred to herein as the "**Developer**".

RECITALS

A. **Constitutional Authority:** As a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois (the "State"), the City has the power to regulate for the protection of the public health, safety, morals and welfare of its inhabitants, and pursuant thereto, has the power to encourage private development in order to enhance the local tax base, create employment opportunities and to enter into contractual agreements with private parties in order to achieve these goals.

B. **Statutory Authority:** The City is authorized under the provisions of the **Tax Increment Allocation Redevelopment Act**, 65 ILCS 5/11-74.4-1 et seq., as amended from time to time (the "Act"), to finance projects that eradicate blighted conditions and conservation area factors through the use of tax increment allocation financing for redevelopment projects.

C. **City Council Authority:** To induce redevelopment pursuant to the Act, the City Council of the City (the "**City Council**") adopted the following ordinances on June 10, 1998: (1) "An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the Kinzie Industrial Conservation Redevelopment Project Area"; (2) "An Ordinance of the City of Chicago, Illinois Designating the Kinzie Industrial Conservation Redevelopment Project Area as a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act"; and (3) "An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the Kinzie Industrial Conservation Redevelopment Project Area" (the "TIF Adoption Ordinance") (items(1)-(3) collectively referred to herein as the "**TIF Ordinances**"). The redevelopment project area referred to above (the "**Redevelopment Area**") is legally described in **Exhibit A** hereto.

D. **The Project:** GWT will acquire certain property located within the Redevelopment Area at 500 North Sacramento Boulevard, Chicago, Illinois 60612 and legally described on **Exhibit B** hereto (the "**Property**") and transfer the Property to the Company. The Company will, within the time frames set forth in **Section 3.01** hereof, improve the site and develop an approximately 60,734 square foot facility located on the Property and accommodate the relocation of GWT's existing operations at 2010 West Carroll Street and 790 North Milwaukee Avenue and the consolidation of the majority of GWT 's operations as a new Community Training and Economic Development Center and provide vocational preparation, career education, comprehensive adult job placement services, vocational job training and community education, including the West Town Academy, new Woodworking Business Incubation and Technology Support Center capable of accommodating over 200 full- and part-time students, a parking lot with 31spaces, and LEED certification, as defined in **Section 10.04** (the "**Facility**"). Upon completion of the Facility, the Company will lease the Facility to GWT so that it may provide the foregoing services at the Facility. The Facility and related improvements (including but not limited to those TIF-Funded Improvements as defined below and set forth on **Exhibit C**) are collectively referred to herein as the "Project." The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

E. **Redevelopment Plan:** The Project will be carried out in accordance with this Agreement and the City of Chicago Kinzie Industrial Conservation Redevelopment Project Area Tax Increment Financing Program Redevelopment Plan (the "Redevelopment Plan"), attached hereto as **Exhibit D**.

F. **City Financing:** The City agrees to use, in the amounts set forth in **Section 4.03** hereof, the Available Incremental Taxes (as defined below) to pay for or reimburse GWT for the costs of TIF-Funded Improvements that GWT will incur prior to the transferring the Property to the Company, pursuant to the terms and conditions of this Agreement and the City Note (as defined below).

G. **Roles of the Company and GWT:** GWT and the Company will perform separate and distinct functions in carrying out this Project. GWT will be responsible for acquiring the Property and performing certain predevelopment functions that improve the

Property. The Company will acquire the Property from GWT (as improved by the predevelopment activities performed thereon by GWT) and will rehab, equip, own, and operate the Facility and lease it to GWT so that GWT may provide the services described in Recital D.

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:

"Act" shall have the meaning set forth in the Recitals hereof.

"Acquisition" shall have the meaning set forth in the Recitals hereof.

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

"Annual Compliance Report" shall mean a signed report from the Developer to the City (a) itemizing each of the Developer's obligations under the RDA during the preceding calendar year, (b) certifying the Developer's compliance or noncompliance with such obligations, (c) attaching evidence (whether or not previously submitted to the City) of such compliance or noncompliance and (d) certifying that the Developer is not in default with respect to any provision of the RDA, the agreements evidencing the Lender Financing, if any, or any related agreements; provided, that the obligations to be covered by the Annual Compliance Report shall include the following: (1) compliance with the Jobs Covenant (**Section 8.06**); (2) delivery of Financial Statements (**Section 8.13**); (3) delivery of updated insurance certificates, if applicable (**Section 8.14**); (4) delivery of evidence of payment of Non-Governmental Charges, if applicable (**Section 8.15**); (5) compliance with Occupancy and Operation Covenant (**Section 8.20**); and (6) compliance with all other executory provisions of the RDA.

"Available Incremental Taxes" shall mean certain Incremental Taxes not pledged to prior obligations in the Redevelopment Area as described in **Exhibit P**, attached hereto .

"Bond(s)" shall have the meaning set forth for such term in **Section 8.05** hereof.

"Bond Ordinance" shall mean the City ordinance authorizing the issuance of Bonds.

"CDE" shall mean CDF SUBALLOCATEE II, LLC, an Illinois limited liability company, and its successors or assigns.

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

"Certificate of Expenditure" shall mean any Certificate of Expenditure referenced in the City Note pursuant to which the principal amount of the City Note will be established.

"Change Order" shall mean any amendment or modification to the Scope Drawings, Plans and Specifications or the Project Budget as described in **Section 3.02**, **Section 3.03** and **Section 3.04**, respectively.

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

"City Funds" shall mean the funds paid to GWT, pursuant to the Initial Payment and the City Note.

"City Note" shall mean the City of Chicago Tax Increment Allocation Revenue Note, Kinzie Industrial Conservation Redevelopment Project Area (Greater West Town Community Development Project Redevelopment Project) Taxable Series A, Registered No. R-1, to be in the form attached hereto as **Exhibit K**, issued by the City to GWT in the maximum principal amount of \$2,100,000, subject to reduction as described in **Section 4.03**. Upon issuance of the City Note, interest at an annual fixed rate (matching the interest rate of the Senior Loan) equal to the median value of the 7-year Treasury constant maturity as published in the Federal Reserve Release plus, 435 basis points, but not to exceed nine percent (9.0%) and shall provide for accrued, but unpaid, interest to bear interest at the same annual rate. Interest on the City Note shall be taxable for federal income tax purposes. The City Note shall be repayable solely from Available Incremental Taxes.

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

"Construction Contract" shall mean that certain contract, in substantially the form attached hereto as **Exhibit E**, entered into between the Company and the General Contractor providing for construction of the Project.

"Compliance Period" shall have the meaning set forth in **Section 8.20** hereof.

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

"Employer(s)" shall have the meaning set forth in **Section 10** hereof.

"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.

"**Equity**" shall mean funds of the Developer (other than funds derived from Lender Financing) irrevocably available for the Project, in the amount set forth in **Section 4.01** hereof, which amount may be increased pursuant to **Section 4.07** (Cost Overruns).

"**Event of Default**" shall have the meaning set forth in **Section 15** hereof.

"**Facility**" shall have the meaning set forth in the Recitals hereof.

"**Financial Statements**" shall mean complete audited financial statements of the Developer prepared by a certified public accountant in accordance with generally accepted accounting principles and practices consistently applied throughout the appropriate periods.

"**General Contractor**" shall mean Pinnacle Development, Inc. hired by the Developer pursuant to **Section 6.01**.

"**Guaranty**" shall mean that certain Guaranty by GWT in favor of the City as further described in **Section 5.17**, herein.

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

"**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 Kinzie Industrial Conservation TIF Fund established to pay Redevelopment Project Costs and obligations incurred in the payment thereof.

"**Initial Payment**" shall mean the payment from the City to GWT as described in **Section 4.03(b)** hereof.

"**Investment Fund**" shall mean Chase NMTC GWT, LLC, a Delaware limited liability company.

"**Junior Mortgage**" shall mean a Junior Construction Mortgage substantially in the form of **Exhibit N**, with such changes as may be approved by DPD and Corporation Counsel, executed by the Company as, mortgagor, in favor of the City, as mortgagee, securing certain of the Developer's obligations under this Agreement and the Junior Mortgage; and which shall be a second mortgage on the Property.

"**Kinzie Industrial Conservation 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.

"LEED" shall mean the Leadership in Energy and Environmental Design (LEED) Green Building Rating System maintained by the U.S. Green Building Council.

"Lender Financing" shall mean funds borrowed by the Developer from lenders and irrevocably available to pay for Costs of the Project, in the amount set forth in **Section 4.01** hereof.

"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 G-2**, as described in **Section 10.03**.

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

"NMTC" shall mean New Market Tax Credits.

"NMTC Compliance Period" shall have the meaning set forth in **Section 8.20** hereof.

"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.

"Plans and Specifications" shall mean final construction documents containing a site plan and working drawings and specifications for the Project, as submitted to the City as the basis for obtaining building permits for the Project.

"Prior Expenditure(s)" shall have the meaning set forth in **Section 4.06(a)** hereof.

"Project" shall have the meaning set forth in the Recitals hereof.

"Project Budget" shall mean the budget attached hereto as **Exhibit G-1**, showing the total cost of the Project by line item, furnished by the Developer to DCD, in accordance with **Section 3.03** hereof.

"Property" shall have the meaning set forth in the Recitals hereof.

"QLICI Lender" shall mean the CDE.

"QLICI Loan" shall mean those certain loans made by the CDE to the Company for the Project,

"Qualified Investor" shall mean a qualified institutional buyer or a registered investment company.

"Redevelopment Area" shall have the meaning set forth in the Recitals hereof.

"Redevelopment Plan" shall have the meaning set forth in the Recitals hereof.

"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.

"Requisition Form" shall mean the document, in the form attached hereto as **Exhibit J**, to be delivered by the Developer to DCD pursuant to **Section 4.04** of this Agreement.

"Scope Drawings" shall mean preliminary construction documents containing a site plan and preliminary drawings and specifications for the Project.

"Senior Lender" shall mean Harris, N.A. or some other bank or entity approved by DCD.

"Senior Loan" shall mean the approximately \$4,450,000 loaned by the Senior Lender to the Developer.

"Survey" shall mean a Class A plat of survey in the most recently revised form of ALTA/ACSM urban survey of the Property 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 in connection with the construction of the Facility and related improvements as required by the City or lender(s) providing Lender Financing).

"Term of the Agreement" shall mean the period of time commencing on the Closing Date and ending the earlier of (i) ten (10) years from the issuance of the Certificate or (ii) the date which the Redevelopment Area is no longer in effect (through and including June 10, 2021).

"TIF Adoption Ordinance" shall have the meaning set forth in the Recitals hereof.

"TIF Bonds" shall have the meaning set forth in the Recitals hereof.

"TIF Bond Ordinance" shall have the meaning set forth in the Recitals hereof.

"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. **Exhibit C** lists the TIF-Funded Improvements for the Project.

"TIF Ordinances" shall have the meaning set forth in the Recitals hereof.

"Title Company" shall mean Greater Illinois Title Company.

"Title Policy" shall mean a title insurance policy in the most recently revised ALTA or equivalent form, showing the Company 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.** With respect to the Facility, the Developer shall, pursuant to the Plans and Specifications and subject to the provisions of **Section 18.17** hereof: (i) commence construction no later than August 30, 2009; and (ii) complete construction and conduct business operations therein no later than June 30, 2010. Upon request from the Developer, the Commissioner of DCD (the "Commissioner") may extend the commencement date and/or the completion date of the Project, subject to **Section 3.04** herein.

3.02 **Scope Drawings and Plans and Specifications.** The Developer has delivered the Scope Drawings and Plans and Specifications to DCD and DCD has approved same. After such initial approval, subsequent proposed material changes to the Scope Drawings or Plans and Specifications shall be submitted to DCD as a Change Order pursuant to **Section 3.04** hereof. The Scope Drawings and Plans and Specifications shall at all times conform to the Redevelopment Plan and all applicable federal, state and local laws, ordinances and regulations. The Developer shall submit all necessary documents to the City's Department of Construction and Permits, Department of Transportation and such other City departments or governmental authorities as may be necessary to acquire building permits and other required approvals for the Project.

3.03 **Project Budget.** The Developer has furnished to DCD, and DCD has approved, a Project Budget showing total costs for the Project in an amount not less than Ten Million Two Hundred Thirty-Two Thousand One Hundred Eleven Dollars (\$10, 232,111). The Developer hereby certifies to the City that (a) it has Lender Financing and Equity described in **Section 4.02** hereof, in an amount sufficient to complete Project, and (b) the Project Budget is true, correct and complete in all material respects. The Developer shall promptly deliver to DCD certified copies of any Change Orders with respect to the Project Budget for approval pursuant to **Section 3.04** hereof.

3.04 **Change Orders.** Except as provided below, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to material changes to the Project must be submitted by the Developer to DCD concurrently with the progress reports described in **Section 3.07** hereof; provided, that any Change Order relating to any of the following must be submitted by the Developer to DCD for DCD's prior written approval: (a) a reduction of more than five percent (5%) in the square footage of the Facility; (b) a change in the use of the Property to a use other than as a facility for GWT to provide

vocational and career educational services; (c) a delay in the completion of the Project by more than three months; or (d) a five percent (10%) increase in the Project Budget or in any line item in the Project Budget. The Developer shall not authorize or permit the performance of any work relating to any Change Order or the furnishing of materials in connection therewith prior to the receipt by the Developer of DCD's written approval (to the extent required in this section). The Construction Contract, and each contract between the General Contractor and any subcontractor, shall contain a provision to this effect. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds that the City has pledged pursuant to this Agreement or provide any other additional assistance to the Developer.

3.05 DCD Approval. Any approval granted by DCD of the Scope Drawings, Plans and Specifications and the Change Orders is for the purposes of this Agreement only and does not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval, nor does any approval by DCD pursuant to this Agreement constitute approval of the quality, structural soundness or safety of the Property or the Project.

3.06 Other Approvals. Any DCD approval under this Agreement shall have no effect upon, nor shall it operate as a waiver of, the Developer's obligations to comply with the provisions of **Section 5.03** (Other Governmental Approvals) hereof. The Developer shall not commence construction of the Project until the Developer has obtained all necessary permits and approvals (including but not limited to DCD's approval of the Scope Drawings and Plans and Specifications) and proof of the General Contractor's and each subcontractor's bonding as required hereunder.

3.07 Progress Reports and Survey Updates. The Developer shall provide DCD with written quarterly progress reports detailing the status of the Project, including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring DCD's written approval pursuant to **Section 3.04**). The Developer shall also provide DCD on a quarterly basis with duplicates of appropriate support documentation verifying disbursements and receipt of Project funds (i.e., invoices, cancelled check registry from the Title Company, partial and final waivers of lien, etc.). The Developer shall provide DCD with the following: (a) three (3) copies of an updated Survey upon the request of DCD or any lender providing Lender Financing, reflecting improvements made to the Property (if the Project or any portion thereof changes or would change the Survey in a manner that is inconsistent with Plans and Specifications), (b) monthly reports showing Developer's (i) utilization of MBE(s) and WBE(s) (see **Section 10.03**), (ii) payment of the prevailing wage rate (see **Section 8.09**), (iii) use of City of Chicago residents (see **Section 10.02**) in completing the construction work (examination of (i), (ii) and (iii) shall all be based on expenditures to date), and (c) if applicable, a report which includes a plan by the Developer to address any shortfall in the matters set forth in (b).

3.08 Inspecting Agent or Architect. An independent agent or architect (other than the Developer's architect) approved by DCD shall be selected to act as the inspecting agent or architect, at the Developer's expense, for the Project. The inspecting agent or architect shall perform periodic inspections with respect to the Project, providing certifications with respect thereto to DPD, prior to requests for disbursement for costs related to the Project. At the Developer's option, the inspecting architect may be the inspecting architect engaged by any

lender providing Lender Financing for the Project, provided that said architect is an independent architect licensed by the State of Illinois.

3.09 **Barricades.** Prior to commencing any construction requiring barricades, the Developer shall install a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all applicable federal, state or City laws, ordinances and regulations. DCD retains the right to approve the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades.

3.10 **Signs and Public Relations.** The Developer shall erect a sign of size and style approved by the City in a conspicuous location on the Property during the Project, indicating that financing has been provided by the City. The City reserves the right to include the name, photograph, artistic rendering of the Project and other pertinent information regarding the Developer, the Property and the Project in the City's promotional literature and communications.

3.11 **Utility Connections.** The Developer may connect all on-site water, sanitary, storm and sewer lines constructed on the Property to City utility lines existing on or near the perimeter of the Property, provided the Developer first complies with all City requirements governing such connections, including the payment of customary fees and costs related thereto.

3.12 **Permit Fees.** In connection with the Project, the Developer shall be obligated to pay only those building, permit, engineering, tap on and inspection fees that are assessed on a uniform basis throughout the City of Chicago and are of general applicability to other property within the City of Chicago.

SECTION 4. FINANCING

4.01 **Total Project Cost and Sources of Funds.** The cost of the Project is estimated to be \$10,232,111, to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

Equity (subject to <u>Sections 4.03(b) and 4.06</u>) (includes New Markets Tax Credit of approx. \$3,593,497 Equity of approx. \$1,188,614, and Initial Payment of \$1,000,000)	\$ 5,782,111
Lender Financing Senior Lender Loan of approx. \$4,450,000	\$ 4,450,000
ESTIMATED TOTAL	\$10,232,111

4.02 **Developer Funds.** Equity and/or Lender Financing shall be used to pay all Project costs, including but not limited to Redevelopment Project costs and costs of TIF-Funded Improvements.

4.03 City Funds.

(a) **Uses of City Funds.** City Funds may only be used to pay directly or reimburse GWT for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs. **Exhibit C** sets forth, by line item, the TIF-Funded Improvements for the Project, and the maximum amount of costs that may be paid by or reimbursed from City Funds for each line item therein (subject to **Sections 4.03(b) and 4.05(b)**), contingent upon receipt by the City of documentation satisfactory in form and substance to DCD evidencing such cost and its eligibility as a Redevelopment Project Cost.

(b) **Sources of City Funds.** Subject to the terms and conditions of this Agreement, including but not limited to this **Section 4.03** and **Section 5** hereof, the City hereby agrees to reimburse GWT for TIF-Funded Improvements for the lesser of Three Million One Hundred Thousand Dollars (\$3,100,000) or 30.29% of the Project Budget (the “**City Funds**”). The City’s financial commitment will be as follows:

- (i) **Initial Payment.** On the Closing Date, the City will pay GWT, subject to **Sections 4.05(a), 4.07, and 5.10**, in an amount not to exceed One Million Dollars (\$1,000,000).
- (ii) **Issuance of City Note.** On the Closing Date, the City Note, attached hereto as **Exhibit K**, will be issued to GWT with a principal balance equal to the cost of TIF-Funded Improvements incurred by GWT on or prior to such issuance date and not including the amount of the Initial Payment, up to a maximum principal amount of Two Million One Hundred Thousand Dollars (\$2,100,000).
- (iii) **Interest Payments on the City Note.** Interest shall begin to accrue upon issuance of the City Note, provided the Senior Lender has funded a credit facility partially collateralized by the City Note for the Project. The City Note shall bear interest at an annual fixed rate (matching the interest rate of the Senior Loan) equal to the [median] value of the 7-year Treasury constant maturity as published in the Federal Reserve Release plus 435 basis points, but not to exceed nine percent (9.0%) and shall provide for accrued, but unpaid, interest to bear interest at the same annual rate. Interest payments shall be deducted from an interest reserve account established by the City with the Senior Lender for the benefit of GWT. The interest reserve account shall be funded initially in the amount of \$314,982, and Senior Lender shall be entitled to debit such account monthly for accrued interest, commencing October 1, 2009, and on the first day of each month thereafter. If the City Note has not been paid in full by April 1, 2012, then the Senior Lender will make a written request to the City to replenish the interest reserve account 90 days prior to the depletion such interest reserve account. The City shall within 90 days after receipt of such notice, replenish the interest reserve account by making a deposit in an amount reasonably estimated, based on the interest charges accrued and paid to such date, to cover the anticipated interest costs through the anticipated date of full repayment of the Note, provided that the City’s obligations shall be subject to the City’s rights to suspend or terminate payments under **Section 15.02** hereof. Any funds remaining in the interest reserve account after payment in full of the City Note shall be released to the City. Interest on the City Note shall be taxable for federal income tax

purposes.

- (iv) **Principal Payments on the City Note.** The City Note will have a maximum term that expires earlier of the Term of the Agreement or when the City Note is paid in full. There will be only two payments of the principal amount of the City Note. The first payment with respect to the City Note shall be made in the maximum principal amount of One Million Fifty Thousand Dollars (\$1,050,000), plus accrued interest, following the issuance of a Certificate of Completion. The second payment with respect to the City Note shall be made in the maximum principal amount of One Million Fifty Thousand Dollars (\$1,050,000), plus accrued interest, following the submission of evidence that the Project has satisfied the LEED environmental requirements enumerated in **Section 10.04** herein.
- (v) **Pledge of Incremental Taxes.** Subject to the limitations set forth in this **Section 4** and in the City Note, the City agrees to reserve and pledge the Available Incremental Taxes to the payments due under the City Note. The City Note shall be repayable solely from the Available Incremental Taxes
- (vi) **Note Pledge, Assignment, Sale.** After issuance, the City Note may be assigned or pledged as collateral to any party providing Lender Financing upon 30 days notice to the City. GWT may sell the City Note, but only to a Qualified Investor with no view to resale and pursuant to an acceptable investment letter or in a manner otherwise reasonably acceptable to the City, upon 30 days notice to the City. Notwithstanding the foregoing, GWT may transfer the Note at any time to (A) an Affiliate or (B) any entity in which the majority equity interest is owned by the parties that have a majority equity interest in GWT.

4.04 **Requisition Form.** On the Closing Date and prior to each October 1 (or such other date as the parties may agree to) thereafter, beginning in 2009 and continuing throughout the earlier of (i) the Term of the Agreement or (ii) the date that GWT has been reimbursed in full under this Agreement, GWT shall provide DCD 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 calendar year (or as otherwise permitted by DCD). On each December 1 (or such other date as may be acceptable to the parties), beginning in 2009 and continuing throughout the Term of the Agreement, the Developer shall meet with DCD at the request of DCD to discuss the Requisition Form(s) previously delivered.

4.05 **Treatment of Prior Expenditures and Subsequent Disbursements.**

(a) **Prior Expenditures.** Only those expenditures made by the GWT with respect to the Project prior to or on the Closing Date, evidenced by documentation satisfactory to DCD and approved by DCD as satisfying costs covered in the Project Budget, shall be considered previously contributed Equity or Lender Financing hereunder (the "Prior Expenditures"). DCD shall have the right, in its reasonable discretion, to disallow any such expenditure as a Prior Expenditure. **Exhibit H** hereto sets forth the prior expenditures approved by DCD as of the date hereof as Prior Expenditures. Prior Expenditures made for items other than TIF-Funded

Improvements shall not be reimbursed to GWT, but shall reduce the amount of Equity and/or Lender Financing required to be contributed by the Developer pursuant to **Section 4.01** hereof.

(b) **Allocation Among Line Items.** Disbursements for expenditures related to TIF-Funded Improvements may be allocated to and charged against the appropriate line only, with transfers of costs and expenses from one line item to another, without the prior written consent of DCD, being prohibited; **provided, however**, that such transfers among line items, in an amount not to exceed \$25,000 or \$100,000 in the aggregate, may be made without the prior written consent of DCD.

4.06 **Cost Overruns.** If the aggregate cost of the TIF-Funded Improvements exceeds City Funds available pursuant to **Section 4.03** hereof, or if the cost of completing the Project exceeds the Project Budget, the Developer shall be solely responsible for such excess cost, and shall hold the City harmless from any and all costs and expenses of completing the TIF-Funded Improvements in excess of City Funds and of completing the Project.

4.07 **Preconditions of Execution of Certificate of Expenditure.** Prior to each execution of a Certificate of Expenditure by the City, GWT shall submit documentation regarding the applicable expenditures to DPD, which shall be satisfactory to DPD in its sole discretion. Delivery by GWT to DPD of any request for execution by the City of a Certificate of Expenditure hereunder shall, in addition to the items therein expressly set forth, constitute a certification to the City, as of the date of such request for execution of a Certificate of Expenditure, that:

(a) the total amount of the request for Certificate of Expenditure represents the actual cost of the actual amount paid by GWT for Project expenditures on or prior to the Closing Date, including to the General Contractor and/or subcontractors who have performed work on the Project, and/or their payees;

(b) all amounts shown as previous payments on the current request for Certificate of Expenditure have been paid to the parties entitled to such payment;

(c) GWT has approved all work and materials for the current request for Certificate of Expenditure, and such work and materials conform to the Plans and Specifications;

(d) the representations and warranties contained in this Redevelopment Agreement are true and correct and the Developer is in compliance with all covenants contained herein;

(e) the Developer has received no notice and has no knowledge of any liens or claim of lien either filed or threatened against the Property except for the Permitted Liens;

(f) no Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default exists or has occurred; and

(g) the Project is In Balance. The Project shall be deemed to be in balance ("**In Balance**") only if the total of the available Project funds equals or exceeds the aggregate of the amount necessary to pay all unpaid Project costs incurred or to be incurred in the completion of the Project. "**Available Project Funds**" as used herein shall mean: (i) the undisbursed City Funds; (ii) the undisbursed Lender Financing, if any; (iii) the undisbursed Equity and (iv) any other amounts deposited by the Developer pursuant to this Agreement. The Developer hereby

agrees that, if the Project is not In Balance, the Developer shall, within 10 days after a written request by the City, make available (in a manner acceptable to the City), cash in an amount that will place the Project In Balance, which deposit shall first be exhausted before any further disbursement of the City Funds shall be made.

The City shall have the right, in its discretion, to require GWT to submit further documentation as the City may require in order to verify that the matters certified to above are true and correct, and any execution of a Certificate of Expenditure by the City shall be subject to the City's review and approval of such documentation and its satisfaction that such certifications are true and correct; **provided, however**, that nothing in this sentence shall be deemed to prevent the City from relying on such certifications by GWT. In addition, GWT shall have satisfied all other preconditions of execution of a Certificate of Expenditure, including but not limited to requirements set forth, if any, in the TIF Ordinances and this Agreement.

4.08 **Conditional Grant.** Certain of 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 City Funds are subject to being reimbursed as provided in **Section 5.17 – Guaranty Agreement** hereof.

SECTION 5. CONDITIONS PRECEDENT

The following conditions have been complied with to the City's satisfaction on or prior to the Closing Date:

5.01 **Project Budget.** The Developer has submitted to DCD, and DCD has approved, a Project Budget in accordance with the provisions of **Section 3.03** hereof.

5.02 **Scope Drawings and Plans and Specifications.** The Developer has submitted to DCD, and DCD has approved, the Scope Drawings and Plans and Specifications accordance with the provisions of **Section 3.02** hereof.

5.03 **Other Governmental Approvals.** The Developer has secured all other necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation and has submitted evidence thereof to DCD.

5.04 **Financing.** The Developer has furnished proof reasonably acceptable to the City that GWT and/or the Company has Equity and Lender Financing in the amounts set forth in **Section 4.01** hereof to complete the Project and satisfy its obligations under this Agreement. If a portion of such funds consists of Lender Financing, the GWT and/or the Company has furnished proof as of the Closing Date that the proceeds thereof are available to be drawn upon by the Developer as needed and are sufficient (along with the Equity set forth in **Section 4.01**) to complete the Project. The Developer has delivered to DCD a copy of the construction escrow agreement, if any, entered into by the Developer regarding the Lender Financing. Any liens against the Property in existence at the Closing Date have been subordinated to certain encumbrances of the City set forth herein pursuant to a Subordination Agreement, in a form acceptable to the City, executed on or prior to the Closing Date, which is to be recorded, at the expense of the Developer, with the Office of the Recorder of Deeds of Cook County.

5.05 **Acquisition and Title.** On the Closing Date, the Company has furnished the City with a copy of the Title Policy for the Property, certified by the Title Company, showing the Company as the named insured. The Title Policy is dated as of the Closing Date and contains only those title exceptions listed as Permitted Liens on **Exhibit F** hereto and evidences the recording of this Agreement pursuant to the provisions of **Section 8.18** hereof. The Title Policy also contains such endorsements as shall be required by Corporation Counsel, including but not limited to an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.1 with parking), contiguity, location, access and survey. The Developer has provided to DCD, on or prior to the Closing Date, documentation related to the purchase of the Property and certified copies of all easements and encumbrances of record with respect to the Property not addressed, to DCD's satisfaction, by the Title Policy and any endorsements thereto.

5.06 **Evidence of Clean Title.** The Developer, at its own expense, has provided the City with searches under the Developer's name as follows:

Secretary of State	UCC search
Secretary of State	Federal tax search
Cook County Recorder	UCC search
Cook County Recorder	Fixtures 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, Pending suits and judgments	
Cook County	

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

5.07 **Surveys.** The Developer has furnished the City with three (3) copies of the Survey.

5.08 **Insurance.** The Developer, at its own expense, has insured the Property in accordance with **Section 12** hereof, and has delivered certificates required pursuant to **Section 12** hereof evidencing the required coverages to DCD.

5.09 **Opinion of the Developer's Counsel.** On the Closing Date, the Developer has furnished the City with an opinion of counsel, substantially in the form attached hereto as **Exhibit I**, with such changes as required by or acceptable to Corporation Counsel. If the Developer has engaged special counsel in connection with the Project, and such special counsel is unwilling or unable to give some of the opinions set forth in **Exhibit I** hereto, such opinions were obtained by the Developer from its general corporate counsel.

5.10 **Evidence of Prior Expenditures.** GWT has provided evidence satisfactory to DCD in its reasonable discretion of the Prior Expenditures in accordance with the provisions of **Section 4.05(a)** hereof.

5.11 **Financial Statements.** GWT has provided Financial Statements to DCD for its three (3) most recent fiscal years, and audited or unaudited interim financial statements.

5.12 **Documentation.** GWT has provided documentation to DCD, satisfactory in form and substance to DCD, with respect to current employment matters.

5.13 **Environmental.** The Developer has provided DCD with copies of that certain phase I environmental audit and phase II environmental audit completed with respect to the Property. The Developer has provided the City with a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits.

5.14 **Corporate Documents; Economic Disclosure Statement.** Developer has provided a copy of its Certificate or Articles of Incorporation containing the original certification of the Secretary of State of its state of incorporation; certificates of good standing from the Secretary of State of its state of incorporation and all other states in which Developer is qualified to do business; a secretary's certificate in such form and substance as the Corporation Counsel may require; by-laws of the corporation; and such other corporate documentation as the City has requested. Developer has provided to the City an Economic Disclosure Statement, in the City's then current form, dated as of the Closing Date.

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

5.16 **Junior Mortgage.** The Developer shall have delivered to the City the Junior Mortgage in form attached as **Exhibit N** and such financing statements as the City may require.

5.17 **Guaranty Agreement.** GWT shall have executed a guaranty in favor of the City that shall guaranty payment to the City of the following: (i) any penalty incurred by SPE under **Section 10.02 – City Resident Construction Worker Employment Requirement** hereof; (ii) any obligation of SPE in **Section IV – Reimbursement Obligation** of the Junior Mortgage; (iii) any obligation of the Developer related to a breach of **Section 8.20 - the Occupancy and Operation Covenant** hereof, as further defined in the form of the Guaranty, attached hereto as **Exhibit O**.

5.18 **Leases.** The Developer has provided DCD with a copy of any leases related to the Property.

SECTION 6. AGREEMENTS WITH CONTRACTORS

6.01 **Bid Requirement for General Contractor and Subcontractors.** (a) Except as set forth in **Section 6.01(b)** below, prior to entering into an agreement with a General Contractor or any subcontractor for construction of the Project, the Developer shall solicit, or shall cause the General Contractor to solicit, bids from qualified contractors eligible to do business with the City of Chicago, and shall submit all bids received to DCD for its inspection and written approval. For the TIF-Funded Improvements, the Developer shall cause the General Contractor to select the subcontractor submitting the lowest responsible bid who can complete the Project in a timely manner. If the General Contractor selects any subcontractor submitting other than the lowest responsible bid for the TIF-Funded Improvements, the difference between the lowest responsible bid and the bid selected may not be paid out of City Funds. The Developer shall

submit copies of the Construction Contract to DCD in accordance with **Section 6.02** below. Photocopies of all subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DCD within five (5) business days of the execution thereof. The Developer shall cause the General Contractor to ensure that the subcontractors shall not begin work on the Project until the Plans and Specifications have been approved by DCD and all requisite permits have been obtained.

(b) If, prior to entering into an agreement with a General Contractor for construction of the Project, the Developer does not solicit bids pursuant to **Section 6.01(a)** hereof, then the fee of the General Contractor proposed to be paid out of City Funds shall not exceed 5% of the total amount of the Construction Contract. Except as explicitly stated in this paragraph, all other provisions of **Section 6.01(a)** shall apply, including but not limited to the requirement that the General Contractor shall solicit competitive bids from all subcontractors.

6.02 Construction Contract. The Developer has delivered to DCD and DCD has approved the Construction Contract with the General Contractor selected to handle the Project in accordance with **Section 6.01** above. The Developer shall deliver to DCD any modifications, amendments or supplements thereto.

6.03 Performance and Payment Bonds. Prior to the commencement of any portion of the Project which includes work on the public way, the Developer shall require that the General Contractor be bonded for its payment by sureties having an AA rating or better. The City shall be named as obligee or co-obligee on any such bonds in the form attached as **Exhibit M** hereto.

6.04 Employment Opportunity. The Developer shall contractually obligate and cause the General Contractor and each subcontractor to agree to the provisions of **Section 10** hereof; provided, however, that the contracting, hiring and testing requirements associated with the MBE/WBE and City resident obligations in **Section 10** shall be applied on an aggregate basis.

6.05 Other Provisions. In addition to the requirements of this **Section 6**, the Construction Contract and each contract with any subcontractor shall contain provisions required pursuant to **Section 3.04** (Change Orders), **Section 8.09** (Prevailing Wage), **Section 10.01(e)** (Employment Opportunity), **Section 10.02** (City Resident Employment Requirement), subject to the exception in **Section 6.04**, **Section 10.03** (MBE/WBE Requirements, as applicable), subject to the exception in **Section 6.04**, **Section 12** (Insurance) and **Section 14.01** (Books and Records) hereof. Photocopies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DCD within five (5) business days of the execution thereof.

SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION

7.01 Certificate of Completion of Construction or Rehabilitation. (a) Upon proof provided to DCD's satisfaction of:

- (i) completion of the construction of the Project in accordance with the terms of this Agreement;
- (ii) certificate of occupancy for the Facility;

- (iii) the establishment of operations by GWT, as a tenant of the Company, in the Facility in accordance with the terms of this Agreement;
- (iv) Developer has met or exceeded the MBE, WBE, prevailing wage and City residency requirements of this Agreement;
- (v) the actual total costs of the Project;
- (vi) the actual TIF-Eligible Improvements expenditures incurred by GWT;
- (vii) the review and acceptance by the City's Department of Environment ("DOE") of the implementation of the MPE Proposal and the related results as outlined in **Section 11.01** herein;
- (viii) the Title Company's registry of cancelled checks and lien wavers for all amounts referenced in subsections (v) and (vi) above; and
- (ix) and upon the Developer's written request,

then DCD shall issue to the Developer a Certificate in recordable form certifying that the Developer has fulfilled its obligation to complete the construction work for the Project in accordance with the terms of this Agreement. DCD shall respond to the Developer's written request for a Certificate within forty-five (45) days by issuing either a Certificate or a written statement detailing the ways in which the construction of the Project does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by the Developer in order to obtain the Certificate. The Developer may resubmit a written request for a Certificate upon completion of such measures.

(b) After the issuance of the Certificate, the Developer must provide evidence of LEED certification from the U.S. Green Building Council, as defined in **Section 8.23**, in order for GWT to receive the second payment on the City Note, as described in **Section 4.01**.

7.02 Effect of Issuance of Certificate; Continuing Obligations. The Certificate relates only to the construction of the Project, and upon its issuance, the City will certify that the terms of the Agreement specifically related to the Developer's obligation to complete such activities have been satisfied. After the issuance of a Certificate, however, all executory terms and conditions of this Agreement and all representations and covenants contained herein will continue to remain in full force and 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, 8.14, 8.20 and 8.21 as covenants that run with the land are the only covenants in this Agreement intended to be binding upon any transferee of the Property (including an assignee as described in the following sentence) throughout the Term of the Agreement notwithstanding the issuance of a Certificate; **provided**, that upon the issuance of a Certificate, the covenants set forth in **Section 8.02** shall be deemed to have been fulfilled. The other executory terms of this Agreement that remain

after the issuance of a Certificate shall be binding only upon the Developer or a permitted assignee of the Developer who, pursuant to **Section 18.15** of this Agreement, has contracted to take an assignment of the Developer's rights under this Agreement and assume the Developer's liabilities hereunder.

7.03 **Failure to Complete.** If the Developer fails to complete the Project in accordance with the terms of this Agreement, then the City has, but shall not be limited to, the right to terminate this Agreement and cease all disbursement of City Funds not yet disbursed pursuant hereto.

7.04 **Notice of Expiration of Term of Agreement.** Upon the expiration of the Term of the Agreement, DCD 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.** 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) (i) GWT is an Illinois not-for-profit corporation and a 5.01(c)(3) entity, 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; and (ii) the Company, whose sole member is GWT, 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) 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 corporate or company action, and does not and will not violate its Articles of Incorporation, Articles of Organization, Operating Agreement or by-laws, 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) unless otherwise permitted or not prohibited pursuant to or under the terms of this Agreement, the Company shall acquire and shall maintain good, indefeasible and merchantable fee simple title to the Property (and all improvements thereon) free and clear of all liens (except for the Permitted Liens, Lender Financing as disclosed in the Project Budget and non-governmental charges that the Company is contesting in good faith pursuant to **Section 8.15** hereof);

(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 (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to construct, complete and operate the Project;

(h) to the Developer's actual knowledge, the Developer is not in default with respect to any indenture, loan agreement, mortgage, deed, note or any other agreement or instrument related to the borrowing of money to which the Developer is a party or by which the Developer is bound;

(i) to the Developer's actual knowledge, the Financial Statements are, and when hereafter required to be submitted will be, complete, correct in all material respects and accurately present the assets, liabilities, results of operations and financial condition of the Developer, and there has been no material adverse change in the assets, liabilities, results of operations or financial condition of the Developer since the date of the Developer's most recent Financial Statements;

(j) prior to the issuance of a Certificate, the Developer shall not do any of the following without the prior written consent of DCD: (1) be a party to any merger, liquidation or consolidation; (2) sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or any portion of the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto) except in the ordinary course of business; (3) enter into any transaction outside the ordinary course of the Developer's business that would materially adversely affect the ability of the Developer to complete the Project; (4) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity that would materially adversely affect the ability of the Developer to complete the Project; or (5) enter into any transaction that would cause a material and detrimental change to the Developer's financial condition that would materially adversely affect the ability of the Developer to complete the Project, provided, that the City expressly consents to (i) the QLICI Loan and a guaranty of the same by GWT and (ii) the Company and GWT agreeing to indemnify the investor member of the Investment Fund on account of a recapture or disallowance of the NMTC expected to be claimed by such party;

(k) the Developer has not incurred, and, prior to the issuance of a Certificate, shall not, without the prior written consent of the Commissioner of DCD, allow the existence of any liens against the Property (or improvements thereon) other than the Permitted Liens and provided further that the Developer may insure over any such liens without the occurrence of an Event of Default hereunder; or incur any indebtedness, secured or to be secured by the Property (or improvements thereon) or any fixtures now or hereafter attached thereto, except Lender Financing disclosed in the Project Budget;

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

(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.

8.02 **Covenant to Redevelop.** Upon DCD's approval of the Project Budget, the Scope Drawings and Plans and Specifications as provided in **Sections 3.02** and **3.03** hereof, and the Developer's receipt of all required building permits and governmental approvals, the Developer shall redevelop the Property in accordance with this Agreement and all Exhibits attached hereto, the TIF Ordinances, the Scope Drawings, Plans and Specifications, Project Budget and all amendments thereto, and all federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project, the Property and/or the Developer. The covenants set forth in this Section shall run with the land and be binding upon any transferee, but shall be deemed satisfied upon issuance by the City of a Certificate with respect thereto.

8.03 **Redevelopment Plan.** The Developer represents that the Project is and shall be in compliance with all of the terms of the Redevelopment Plan.

8.04 **Use of City Funds.** City Funds disbursed to GWT shall be used by GWT solely to pay for (or to reimburse GWT for its payment for) the TIF-Funded Improvements as provided in this Agreement.

8.05 **Other 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, the proceeds of which may be used to reimburse the City for expenditures made in connection with, or provide a source of funds for the payment for, the TIF-Funded Improvements (the "Bonds"); provided, however, that any such amendments shall not have a material adverse effect on the Developer or the Project; and further provided, that the payment obligations relating to any such Bonds shall be subordinate to the City's obligations hereunder with respect to payments under the City Note or (provided that such Bond issue includes a pledge of the Incremental Taxes) the proceeds of such Bonds shall be used to fully retire the City Note. The City hereby covenants and agrees that it shall not issue any Bonds unless, in connection therewith, the City Note is paid in full, and provided further that such Bond issue includes a pledge of the Incremental Taxes. The Developer shall, at no expense to the Developer, 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.

8.06 **Job Creation and Retention.** GWT shall use its commercially reasonable efforts to maintain thirty-five (35) full-time equivalent permanent jobs at the Facilities within twelve months after the issuance of the Certificate through the tenth anniversary of the date of the Certificate, as evidenced in the Annual Compliance Report as defined in **Section 2** herein. However, any shortfall will not be deemed an Event of Default.

8.07 **Employment Opportunity; Progress Reports.** The Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each subcontractor to abide by the terms set forth in **Section 10** hereof; provided, however, that the contracting, hiring and testing requirements associated with the MBE/WBE and City resident obligations set forth in **Section 10** shall be applied on an aggregate basis and the failure of the General Contractors to require each subcontractor to satisfy, or the failure of any one subcontractor to satisfy, such obligations shall not result in a default or a termination of this Agreement or require repayment of the city resident hiring shortfall amount if such Section 10 requirements are satisfied on an aggregate basis. The Developer shall deliver to the City written progress reports detailing compliance with the requirements of **Sections 8.09, 10.02 and 10.03** of this Agreement. Such reports shall be delivered to the City when the Project is 25%, 50%, 70% and 100% completed (based on the amount of expenditures incurred in relation to the Project Budget). If any such reports indicate a shortfall in compliance, the Developer shall also deliver a plan to DCD which shall outline, to DCD's satisfaction, the manner in which the Developer shall correct any shortfall.

8.08 **Employment Profile.** Subject to the terms and conditions of **Section 6.04** hereof, the Developer shall submit, and contractually obligate and cause the General Contractor or any subcontractor to submit, to DCD, from time to time, statements of its employment profile upon DCD's request.

8.09 **Prevailing Wage.** The Developer covenants and agrees to pay, and to contractually obligate and cause the General Contractor and each subcontractor to pay, the prevailing wage rate as ascertained by the Illinois Department of Labor (the "**Department**"), to all Project employees. All such contracts shall list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If the Department revises such prevailing wage rates, the revised rates shall apply to all such contracts. Upon the City's request, the Developer shall provide the City with copies of all such contracts entered into by the Developer or the General Contractor to evidence compliance with this **Section 8.09.**

8.10 **Arms-Length Transactions.** Unless DCD 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 DCD's request, prior to any such disbursement.

8.11 **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.

8.12 **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.

8.13 **Financial Statements.** The Developer shall obtain and provide to DCD Financial Statements for the Developer's fiscal year ended December 31, 2008 and each year thereafter for the Term of the Agreement. In addition, the Developer shall submit unaudited financial statements as soon as reasonably practical following the close of each fiscal year and for such other periods as DCD may request.

8.14 **Insurance.** The Developer, at its own expense, shall comply with all provisions of **Section 12** hereof.

8.15 **Non-Governmental Charges.** (a) **Payment of Non-Governmental Charges.** Except for the Permitted Liens, the Developer agrees to pay or cause to be paid when due any Non-Governmental Charge assessed or imposed upon the Project, the Property or any fixtures that are or may become attached thereto, which creates, may create, or appears to create a lien upon all or any portion of the Property or Project; provided however, that if such Non-Governmental Charge may be paid in installments, the Developer may pay the same together with any accrued interest thereon in installments as they become due and before any fine, penalty, interest, or cost may be added thereto for nonpayment. The Developer shall furnish to DCD, within thirty (30) days of DCD's request, official receipts from the appropriate entity, or other proof satisfactory to DCD, evidencing payment of the Non-Governmental Charge in question.

(b) **Right to Contest.** The Developer has the right, before any delinquency occurs:

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge, prevent the imposition of a lien or remove such lien, or prevent the sale or forfeiture of the Property (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend the Developer's covenants to pay any such Non-Governmental Charge at the time and in the manner provided in this **Section 8.15**); or

(ii) at DCD's sole option, to furnish a good and sufficient bond or other security satisfactory to DCD in such form and amounts as DCD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property or any portion thereof or any fixtures that are or may be attached thereto, during the pendency of such contest, adequate to pay fully

any such contested Non-Governmental Charge and all interest and penalties upon the adverse determination of such contest.

8.16 **Developer's Liabilities.** The Developer shall not enter into any transaction that would materially and adversely affect its ability to perform its obligations hereunder or to repay any material liabilities or perform any material obligations of the Developer to any other person or entity. The Developer shall immediately notify DCD of any and all events or actions that may materially affect the Developer's ability to carry on its business operations or perform its obligations under this Agreement or any other documents and agreements.

8.17 **Compliance with Laws.** To the best of the Developer's knowledge, after diligent inquiry, the Property and the Project are and shall be in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project and the Property. Upon the City's request, the Developer shall provide evidence satisfactory to the City of such compliance.

8.18 **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 on the date hereof in the conveyance and real property records of the county in which the Project is located. This Agreement shall be recorded prior to any mortgage made in connection with Lender Financing. The Developer shall pay all fees and charges incurred in connection with any such recording. Upon recording, the Developer shall immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

8.19 **Real Estate Provisions.**

(a) **Governmental Charges.**

(i) **Payment of Governmental Charges.** The Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon the Developer, the Property or the Project, or become due and payable, and which create, may create, a lien upon the Developer or all or any portion of 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 (except for those assessed by foreign nations, states other than the State of Illinois, counties of the State other than Cook County, and municipalities other than the City) relating to the Developer, the Property or the Project including but not limited to real estate taxes.

(ii) **Right to Contest.** The Developer has the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of the Property. The Developer's right to challenge real estate taxes applicable to the Property is limited as provided for in **Section 8.19(c)** below; provided, that such real estate taxes must be paid in full when due and may be disputed only after such payment is made. No such contest

or objection shall be deemed or construed in any way as relieving, modifying or extending the Developer's covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless the Developer has given prior written notice to DCD of the Developer's intent to contest or object to a Governmental Charge and, unless, at DCD's sole option,

(A) the Developer shall demonstrate to DCD's satisfaction that legal proceedings instituted by the Developer contesting or objecting to a Governmental Charge shall conclusively operate to prevent or remove a lien against, or the sale or forfeiture of, all or any part of the Property to satisfy such Governmental Charge prior to final determination of such proceedings; and/or

(B) the Developer shall furnish a good and sufficient bond or other security satisfactory to DCD in such form and amounts as DCD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property during the pendency of such contest, adequate to pay fully any such contested Governmental Charge and all interest and penalties upon the adverse determination of such contest.

(b) **Developer's Failure To Pay Or Discharge Lien.** If the Developer fails to pay any Governmental Charge or to obtain discharge of the same, the Developer shall advise DCD thereof in writing, at which time DCD may, but shall not be obligated to, and without waiving or releasing any obligation or liability of the Developer under this Agreement, in DCD's sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect thereto which DCD deems advisable. All sums so paid by DCD, if any, and any expenses, if any, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be promptly disbursed to DCD by the Developer. Notwithstanding anything contained herein to the contrary, this paragraph shall not be construed to obligate the City to pay any such Governmental Charge. Additionally, if the Developer fails to pay any Governmental Charge, the City, in its sole discretion, may require the Developer to submit to the City audited Financial Statements at the Developer's own expense.

8.20 **Occupancy and Operations.** Following the issuance of the Certificate and for a period ending on the 10th anniversary of the issuance of the Certificate (the "**Compliance Period**"), the Company shall own and lease the Facility as an occupied and operating training and community education facility, as described in **Recital D** herein, or other uses in support of or incidental to job training and GWT shall lease and occupy the Facility and provide services, as described in **Recital D** herein, or other services in support of or incidental to job training (the "**Occupancy and Operation Covenant**"). If the Occupancy and Operation Covenant is not maintained during the Compliance Period, then the Developer is obligated to repay the Initial Payment made by the City on the Closing Date; however, the Developer's obligation to make such a repayment begins 30 days after the seventh (7th) anniversary of the Closing Date of the Senior Loan (the "**NMTC Compliance Period**") and is limited to the principal amount of the Initial Payment. The schedule for any payment during the Compliance Period is as follows: (i) years 1-5 -100% of the Initial Payment; (ii) year 6 – 80% of the Initial Payment; (iii) year 7-60% of the Initial Payment; (iv) year 8 - 40% of the Initial Payment; (v) year 9 – 20% of the Initial Payment; and (vi) year 9 (after the ninth anniversary and prior to the 10th anniversary) – 10% of the Initial Payment.

8.21 **Consent to Transfer.** Developer shall not transfer, sell or assign all or any portion of the Facility, the Property (including but not limited to any fixture or equipment now or hereafter attached thereto) and GWT shall not transfer, sell, or assign all or a portion of the City Note to a related or unrelated entity (other than the assignment of the City Note to the Senior Lender) within ten (10) years after the issuance of the Certificate without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed.

8.22 **Job Readiness Program.** The City, through the DCD's Business Development Services Division, shall work with the Developer to encourage the recruitment, hiring and training of City residents for the jobs created by the Company's construction of the Project and the operation of GWT's business on the Property.

8.23 **LEED Construction and Certification.** All construction of the Project, including but not limited to construction, building orientation, green space and surface parking shall be built to a LEED Certified standard. The Project shall be registered with the US Green Building Council ("USGBC") for the required certification prior to the beginning of construction. Project shall be constructed in compliance with all guidelines and requirements as delineated by the USGBC mandated for the LEED Certification. Upon completion of construction, Developer shall have all aspects of construction pertinent to LEED certification tested and certified as being compliant with the LEED Standard. The Developer will submit written evidence from the USGBC demonstrating compliance with the required LEED certification. In all instances herein where reference is made to Developer achieving LEED certification such reference shall mean that Developer shall make application under the current standards and definitions and that should the standards change after construction has begun, obtaining certification thereby not being possible, under those circumstances and those circumstances only, such failure to obtain certification shall not be construed as a material breach of the Agreement or constitute an event of default.

8.24 **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.

8.25 **Annual Compliance Report.** Beginning with the issuance of the Certificate and continuing throughout the Term of the Agreement, the Developer shall submit to DCD the Annual Compliance Report within 30 days after the end of the calendar year to which the Annual Compliance Report relates.

SECTION 9. COVENANTS/REPRESENTATIONS/WARRANTIES OF CITY

9.01 **General Covenants.** The City represents that it has the authority as a home rule unit of local government to execute and deliver this Agreement and to perform its obligations hereunder.

9.02 **Survival of Covenants.** All warranties, representations, and covenants of the City contained in this **Section 9** or elsewhere in this Agreement shall be true, accurate, and complete at the time of the City's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and be in effect throughout the Term of the Agreement.

SECTION 10. DEVELOPER'S EMPLOYMENT OBLIGATIONS

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

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

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

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

(d) Each Employer, in order to demonstrate compliance with the terms of this Section, shall cooperate with and promptly and accurately respond to inquiries by the City, which has the

responsibility to observe and report compliance with equal employment opportunity regulations of federal, state and municipal agencies.

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

(f) Failure to comply with the employment obligations described in this **Section 10.01** shall be a basis for the City to pursue remedies under the provisions of **Section 15.02** hereof.

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

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

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

The Developer, the General Contractor and each subcontractor shall provide for the maintenance of adequate employee residency records to show that actual Chicago residents are employed on the Project. Each Employer shall maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

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

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

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

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

When work at the Project is completed, in the event that the City has determined that the Developer has failed to ensure the fulfillment of the requirement of this Section concerning the worker hours performed by actual Chicago residents or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Section. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1 percent (0.0005) of the aggregate hard construction costs set forth in the Project budget (the product of .0005 x such aggregate hard construction costs) (as the same shall be evidenced by approved contract value for the actual contracts) shall be surrendered by the Developer to the City in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject the Developer, the General Contractor and/or the subcontractors to prosecution. **Any retainage to cover contract performance that may become due to the Developer pursuant to Section 2-92-250 of the Municipal Code of Chicago may be withheld by the City pending the Chief Procurement Officer's determination as to whether the Developer must surrender damages as provided in this paragraph.**

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

The Developer shall cause or require the provisions of this **Section 10.02** to be included in all construction contracts and subcontracts related to the Project.

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

(a) Consistent with the findings which support the Minority-Owned and Women-Owned Business Enterprise Procurement Program (the "MBE/WBE" Program"), Section 2-92-420 et seq., Municipal Code of Chicago, and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this **Section 10.03**, during the course of the Project, at least the following percentages of the MBE/WBE Budget (as these

budgeted amounts may be reduced to reflect decreased actual costs) shall be expended for contract participation by MBEs or WBEs:

- i. At least 25 percent by MBEs.
- ii. At least 5 percent by WBEs.

(b) For purposes of this **Section 10.03** only, the Developer (and any party to whom a contract is let by the Developer in connection with the Project) shall be deemed a "contractor" and this Agreement (and any contract let by the Developer in connection with the Project) shall be deemed a "contract" as such terms are defined in Section 2-92-420, Municipal Code of Chicago.

(c) Consistent with Section 2-92-440, Municipal Code of Chicago, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by the Developer), or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of (i) the MBE or WBE participation in such joint venture or (ii) the amount of any actual work performed on the Project by the MBE or WBE), by the Developer utilizing a MBE or a WBE as a General Contractor (but only to the extent of any actual work performed on the Project by the General Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the Project to one or more MBEs or WBEs, or by the purchase of materials used in the Project from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to the Developer's MBE/WBE commitment as described in this **Section 10.03**.

(d) The Developer shall deliver quarterly reports to DCD during the Project describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports shall include inter alia the name and business address of each MBE and WBE solicited by the Developer or the General Contractor to work on the Project, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the Project, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist DCD in determining the Developer's compliance with this MBE/WBE commitment. DCD has access to the Developer's books and records, including, without limitation, payroll records, books of account and tax returns, and records and books of account in accordance with **Section 14** of this Agreement, on five (5) business days' notice, to allow the City to review the Developer's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the Project.

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

(f) Prior to the commencement of the Project, the Developer, the General Contractor and all major subcontractors shall be required to meet with the monitoring staff of DCD with regard to the Developer's compliance with its obligations under this **Section 10.03**. During this

meeting, the Developer shall demonstrate to DCD its plan to achieve its obligations under this **Section 10.03**, the sufficiency of which shall be approved by DCD. During the Project, the Developer shall submit the documentation required by this **Section 10.03** to the monitoring staff of DCD, including the following: (i) subcontractor's activity report; (ii) contractor's certification concerning labor standards and prevailing wage requirements; (iii) contractor letter of understanding; (iv) monthly utilization report; (v) authorization for payroll agent; (vi) certified payroll; (vii) evidence that MBE/WBE contractor associations have been informed of the Project via written notice and hearings; and (viii) evidence of compliance with job creation/job retention requirements. Failure to submit such documentation on a timely basis, or a determination by DCD, upon analysis of the documentation, that the Developer is not complying with its obligations hereunder shall, upon the delivery of written notice to the Developer, be deemed an Event of Default hereunder. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to the Developer to halt the Project, (2) withhold any further payment of any City Funds to the Developer or the General Contractor, or (3) seek any other remedies against the Developer available at law or in equity.

SECTION 11. ENVIRONMENTAL MATTERS

11.01 **Continued Environmental Investigations and Reports.** Developer acknowledges that it will submit to DOE environmental updates and reports prepared by Mostardi Platt Environmental ("MPE") in response to DOE's review of Phase I and Phase II as outlined in a memo entitled "500 North Sacramento Boulevard Environmental Site Assessment Report Review" dated May 7, 2009 ("DOE Memo") and MPE's proposals dated June 10, 2009 and July 15, 2009 (collectively, the "MPE Proposal"). The reports will include, Environmental Soil and Subsurface Water Investigation Report, Asbestos Building Inspection Report, and any additional reporting that may be required based on these findings and as stated in the MBE Proposal. In addition, the Developer shall submit to DOE demolition/renovation contractor disposal records pertaining to all hazardous material (i.e. PCP-containing equipment, asbestos, lead-based paint, mercury ampoules, etc.) and contaminated debris/spoils (i.e. special waste, PCP-contaminated crushed concrete, etc.) disposal documents.]

11.02 **Representations and Warranties.** The Developer hereby represents and warrants to the City that the Developer has conducted environmental studies sufficient to conclude that the Project may be constructed, completed and operated in accordance with all Environmental Laws and this Agreement and all Exhibits attached hereto, the Scope Drawings, Plans and Specifications and all amendments thereto, and the Redevelopment Plan.

Without limiting any other provisions hereof, the Developer agrees to indemnify, defend and hold the City harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of the Developer, except as may be caused by the City, its agents and employees: (i) the presence of any Hazardous Material on or under, or the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Material from (A) all or any portion of the Property or (B) any other real property in which the Developer, or any person directly or indirectly controlling, controlled by or under common control with the Developer, holds any estate or interest

whatsoever (including, without limitation, any property owned by a land trust in which the beneficial interest is owned, in whole or in part, by the Developer), or (ii) any liens against the Property permitted or imposed by any Environmental Laws, or any actual or asserted liability or obligation of the City or the Developer or any of its Affiliates under any Environmental Laws relating to the Property.

SECTION 12. INSURANCE

The Developer shall provide and maintain, or cause to be provided, at the Developer's own expense, during the Term of the Agreement (or as otherwise specified below), the insurance coverages and requirements specified below, insuring all operations related to the Agreement.

(a) Prior to Execution and Delivery of this Agreement and Throughout the Term of the Agreement

(i) Workers Compensation and Employers Liability Insurance

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

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

Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability. coverages shall include the following: All premises and operations, products/completed operations, independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(b) Construction

(i) Workers Compensation and Employers Liability Insurance

Workers Compensation and Employers Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Agreement and Employers Liability coverage with limits of not less than \$500,000 each accident or illness.

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

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages shall include the following: All premises and operations, products/completed operations (for a minimum of two (2) years following project completion), explosion, collapse, underground, independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(iii) **Automobile Liability Insurance** (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Contractor shall provide Automobile Liability Insurance with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory bases.

(iv) **Railroad Protective Liability Insurance**

When any work is to be done adjacent to or on railroad or transit property, Contractor shall provide, or cause to be provided with respect to the operations that the Contractor performs, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy has limits of not less than \$2,000,000 per occurrence and \$6,000,000 in the aggregate for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

(v) **Builders Risk Insurance**

When the Contractor undertakes any construction, including improvements, betterments, and/or repairs, the Contractor shall provide, or cause to be provided All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the permanent facility. Coverages shall include but are not limited to the following: collapse, boiler and machinery if applicable. The City of Chicago shall be named as an additional insured.

(vi) **Professional Liability**

When any architects, engineers, construction managers or other professional consultants perform work in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions shall be maintained with limits of not less than \$1,000,000. Coverage shall include contractual liability. When policies are renewed or replaced, the

policy retroactive date must coincide with, or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

(vii) **Valuable Papers Insurance**

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

(viii) **Contractor's Pollution Liability**

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

(c) **Term of the Agreement**

- (i) Prior to the execution and delivery of this Agreement and during construction of the Project, All Risk Property Insurance in the amount of the full replacement value of the Property. The City of Chicago is to be named an additional insured on a primary, non-contributory basis.
- (ii) Post-construction, throughout the Term of the Agreement, All Risk Property Insurance, including improvements and betterments in the amount of full replacement value of the Property. Coverage extensions shall include business interruption/loss of rents, flood and boiler and machinery, if applicable. The City of Chicago is to be named an additional insured on a primary, non-contributory basis.

(d) **Other Requirements**

The Developer will furnish the City of Chicago, Department of Community Development, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance evidencing the required coverage to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from the Developer shall not be deemed to be a waiver by the City. The Developer

shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance shall not relieve the Developer of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to terminate this Agreement until proper evidence of insurance is provided.

The insurance shall provide for 30 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

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

The Developer agrees that insurers shall waive rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

The Developer expressly understands and agrees that any coverages and limits furnished by the Developer shall in no way limit the Developer's liabilities and responsibilities specified within the Agreement documents or by law.

The Developer expressly understands and agrees that the Developer's insurance is primary and any insurance or self insurance programs maintained by the City of Chicago shall not contribute with insurance provided by the Developer under the Agreement.

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

The Developer shall require the General Contractor, and all subcontractors to provide the insurance required herein or Developer may provide the coverages for the General Contractor, or subcontractors. All General Contractors and subcontractors shall be subject to the same requirements (Section (d)) of Developer unless otherwise specified herein.

If the Developer, General Contractor or any subcontractor desires additional coverages, the Developer, General Contractor and any subcontractor shall be responsible for the acquisition and cost of such additional protection.

The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements, so long as any such change does not increase these requirements.

SECTION 13. INDEMNIFICATION

13.01 General Indemnity. 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 relating or arising out of:

(i) the Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement; or

(ii) the Developer's or any contractor's failure to pay General Contractors, subcontractors or materialmen in connection with the TIF-Funded Improvements or any other Project improvement; or

(iii) the existence of any material misrepresentation or omission in this Agreement, any offering memorandum or information statement or the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by the Developer or any Affiliate Developer or any agents, employees, contractors or persons acting under the control or at the request of the Developer or any Affiliate of Developer; or

(iv) the Developer's failure to cure any misrepresentation in this Agreement or any other agreement relating hereto;

provided, however, that Developer shall have no obligation to an Indemnitee arising from the gross negligence, wanton or willful misconduct of that Indemnitee. To the extent that the preceding sentence may be unenforceable because it is violative of any law or public policy, Developer shall contribute the maximum portion that it is permitted to pay and satisfy under the applicable law, to the payment and satisfaction of all indemnified liabilities incurred by the Indemnitees or any of them. The provisions of the undertakings and indemnification set out in this Section 13.01 shall survive the termination of this Agreement.

SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT

14.01 **Books and Records.** The Developer shall keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual cost of the Project and the disposition of all funds from whatever source allocated thereto, and to monitor the Project. All such books, records and other documents, including but not limited to the Developer's loan statements, if any, General Contractors' and contractors' sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices, shall be available at the Developer's offices for inspection, copying, audit and examination by an authorized representative of the City. The Developer shall incorporate this right to inspect, copy, audit and examine all books and records into all contracts entered into by the Developer with respect to the Project.

14.02 **Inspection Rights.** Upon three (3) business days' notice, any authorized representative of the City has access to all portions of the Project and the Property during normal business hours for the Term of the Agreement.

SECTION 15. DEFAULT AND REMEDIES

15.01 **Events of Default.** The occurrence of any one or more of the following events, subject to the provisions of **Section 15.03**, shall constitute an "Event of Default" by the Developer hereunder:

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

(b) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under any other agreement with any person or entity if such failure may have a material adverse effect on the Developer's business, property, assets, operations or condition, financial or otherwise; the making or furnishing by the Developer to the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any material respect;

(c) except as otherwise permitted hereunder, the creation (whether voluntary or involuntary) of, or any attempt to create, any lien or other encumbrance upon the Property other than the Permitted Liens, or the making or any attempt to make any levy, seizure or attachment thereof;

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

(e) 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 ninety (90) days after the commencement thereof;

(f) the entry of any judgment or order against the Developer in an amount in excess of \$500,000 which remains unsatisfied or undischarged and in effect for ninety (90) days after such entry without a stay of enforcement or execution;

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

(h) the dissolution of Developer;

(i) the institution in any court of a criminal proceeding (other than a misdemeanor) against the Developer or any natural person who owns a material interest in the Developer, which is not dismissed within ninety (90) days, or the indictment of the Developer or any natural person who owns a material interest in the Developer, for any crime (other than a misdemeanor); or

(j) prior to the issuance of the Certificate, the sale or transfer of a majority of the ownership interests of Developer without the prior written consent of the City.

For purposes of **Sections 15.01(i)** and **15.01(j)** hereof, a person with a material interest in the Developer shall be one owning in excess of ten (10%) of the Developer's issued and outstanding shares of stock or membership interests, as the case may be.

15.02 **Remedies.** Upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements, and may suspend disbursement of City Funds. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to injunctive relief or the specific performance of the agreements contained herein.

15.03 **Curative Period.** In the event the Developer shall fail to perform a monetary covenant which the Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the Developer has failed to perform such monetary covenant within ten (10) days of its receipt of a written notice from the City specifying that it has failed to perform such monetary covenant. In the event the Developer shall fail to perform a non-monetary covenant which the Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, 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. An exception to this thirty-day cure period shall be for Developer's default under Section 8.20(a) hereof, for which Developer shall have a period of one year to come back into compliance or secure a new tenant acceptable to DCD.

SECTION 16. 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 (including but not limited to mortgages made prior to or on the date hereof in connection with Lender Financing) and are referred to herein as the "Existing Mortgages." Any mortgage or deed of trust that the Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof is referred to herein as a "New Mortgage." Any New Mortgage that the Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof with the prior written consent of the City is referred to herein as a "Permitted Mortgage." It is hereby agreed by and between the City and the Developer as follows:

(a) In the event that a mortgagee or any other party shall succeed to the Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under a New Mortgage (other than a Permitted Mortgage), whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with **Section 18.15** hereof, the City may, but shall not be obligated to, attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement and, unless so recognized by the City as the successor in interest, such party shall be entitled to no rights or benefits under this Agreement, but such party shall be bound by those provisions of this Agreement that are covenants expressly running with the land.

(b) In the event that any mortgagee shall succeed to the Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under an Existing Mortgage or a Permitted Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with **Section 18.15** hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "the Developer" hereunder; provided, however, that, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of the Developer's interest under this Agreement, such party has no liability under this Agreement for any Event of Default of the Developer which accrued prior to the time such party succeeded to the interest of the Developer under this Agreement, in which case the Developer shall be solely responsible. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of the Developer's interest hereunder, such party shall be entitled to no rights and benefits under this Agreement, and such party shall be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land.

(c) Prior to the issuance by the City to the Developer of a Certificate pursuant to **Section 7** hereof, no New Mortgage shall be executed with respect to the Property or any portion thereof without the prior written consent of the Commissioner of DCD.

SECTION 17. 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) telecopy or facsimile; (c) overnight courier, or (d) registered or certified mail, return receipt requested.

If to the City:

City of Chicago
Department of Community 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 GWT: Greater West Town Community Development Project
790 North Milwaukee Avenue
Chicago, Illinois 60642
Attention: Executive Director

With Copies To: GWT SPE, LLC
790 North Milwaukee Avenue
Chicago, Illinois 60642
Attention:

And to: Applegate & Thorne Thompson
322 South Green Street, Suite 400
Chicago, Illinois 60607
Attention: Nick Brunick

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 either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch. Any notice, demand or request sent pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier and any notices, demands or requests sent pursuant to subsection (d) shall be deemed received two (2) business days following deposit in the mail.

SECTION 18. MISCELLANEOUS

18.01 Amendment. This Agreement and the Exhibits attached hereto may not be amended or modified without the prior written consent of the parties hereto. 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 18.01** shall be defined as any deviation from the terms of the Agreement which operates to cancel or otherwise reduce any developmental, construction or job-creating obligations of Developer (including those set forth in **Sections 10.02 and 10.03** hereof) by more than five percent (5%) or materially changes the Project site or character of the Project or any activities undertaken by Developer affecting the Project site, the Project, or both, or increases any time agreed for performance by the Developer by more than 180 days.

18.02 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.

18.03 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.

18.04 **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.

18.05 **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.

18.06 **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.

18.07 **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.

18.08 **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.

18.09 **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.

18.10 **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.

18.11 **Conflict.** In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances, such ordinance(s) shall prevail and control.

18.12 **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.

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

18.14 **Approval**. Wherever this Agreement provides for the approval or consent of the City, DCD or the Commissioner, or any matter is to be to the City's, DCD'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, DCD or the Commissioner in writing and in the reasonable discretion thereof without unreasonable delay. The Commissioner or other person designated by the Mayor of the City shall act for the City or DCD in making all approvals, consents and determinations of satisfaction, granting the Certificate or otherwise administering this Agreement for the City.

18.15 **Assignment**. Other than a collateral assignment to the Senior Lender, 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. Any successor in interest to the Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to **Sections 8.19** and **8.26** hereof, for the Term of the Agreement. The Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

18.16 **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.

18.17 **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.

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

18.19 **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.

18.20 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.

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

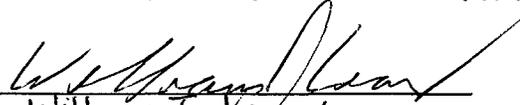
18.22 Business Relationships. The Developer acknowledges (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (B) that Developer has read such provision and understands that pursuant to such Section 2-156-030 (b), it is illegal for any elected official of the City, or any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

18.23 Interpretation of Developer. It is the intent of all parties to this Agreement that the references to the Developer in the following sections (the Definition of Project Budget, 3.01, 3.02, 3.03, 3.04, 3.06, 3.07, 3.08, 3.09, 3.10, 3.11, 3.12, 4.02, 4.06, 4.07(e), the first paragraph of 4.07(g), 5.01, 5.02, 5.03, 5.04, 5.07, 5.13, 5.16, 5.18, 6.01, 6.02, 6.03, 6.04, 6.05, 7.01(a)(iv), 7.01(a)(viii), the paragraph below 7.01(a)(viii), the first line of 7.01(b), 7.03, 8.01(g), 8.01(j), 8.01(k), 8.02, 8.06, 8.07, 8.08, 8.09, 8.15, 8.16, the first reference to Developer in 8.21, 8.23, and 10.01, 10.02, 10.03, 10.04) shall be interpreted to mean the Company. GWT as the sole member of the Company, agrees that it shall cause the Company to take whatever action or to fulfill whatever obligation is required in the sections identified above.

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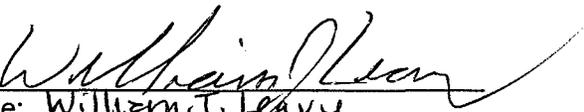
IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be executed on or as of the day and year first above written.

GREATER WEST TOWN COMMUNITY DEVELOPMENT PROJECT,
an Illinois not-for-profit corporation and 501(c)(3)

By: 
Name: William J. Leavy
Its: Executive Director

GWT SPE, LLC, an Illinois limited liability company

By: **GREATER WEST TOWN COMMUNITY DEVELOPMENT PROJECT,**
an Illinois not-for-profit corporation and 501(c)(3), its sole member

By: 
Name: William J. Leavy
Its: Executive Director

**CITY OF CHICAGO, thru its DEPARTMENT OF
COMMUNITY DEVELOPMENT**

By: _____
Name: Christine Raguso
Acting Commissioner

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.

GREATER WEST TOWN COMMUNITY DEVELOPMENT PROJECT,
an Illinois not-for-profit corporation and 501(c)(3)

By: _____
Name: _____
Its: _____

GWT SPE, LLC, an Illinois limited liability company

By: GREATER WEST TOWN COMMUNITY DEVELOPMENT PROJECT,
an Illinois not-for-profit corporation and 501(c)(3), its sole member

By: _____
Name: _____
Its: _____

**CITY OF CHICAGO, thru its DEPARTMENT OF
COMMUNITY DEVELOPMENT**

By: Christine Raguso
Name: Christine Raguso
Acting Commissioner

STATE OF ILLINOIS)

COUNTY OF COOK)

) ss
)

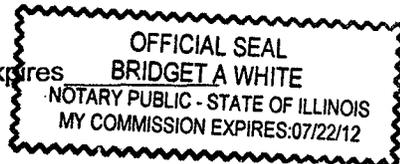
I, Bridget A. White, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Wm. J. Leavy, personally known to me to be the Executive Director of Greater West Town Community Development Project, an Illinois not-for-profit and the sole member of GWT SPE, LLC, an Illinois limited liability company (the "**Company**"), 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 Sole Member of the Company, 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.

2009

GIVEN under my hand and official seal this 10 day of September.

Bridget A. White
Notary Public

My Commission Expires



(SEAL)

STATE OF ILLINOIS)

COUNTY OF COOK)

) SS
)

I, B. White, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Wm. J. Leary, personally known to me to be the Executive Director of Greater West Town Community Development Project, an Illinois not-for-profit corporation, a 501(c)(3) ("GWT"), 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 Board of Directors 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.

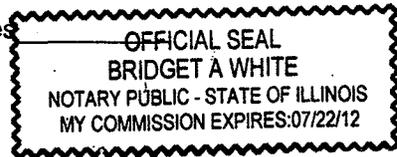
2009

GIVEN under my hand and official seal this 10 day of September

Bridget A. White
Notary Public

(SEAL)

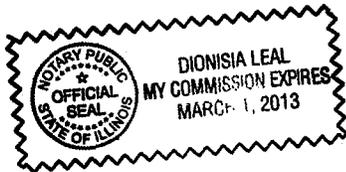
My Commission Expires



STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

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

GIVEN under my hand and official seal this 10 th day of September, 2009.



Dionisia Leal
Notary Public

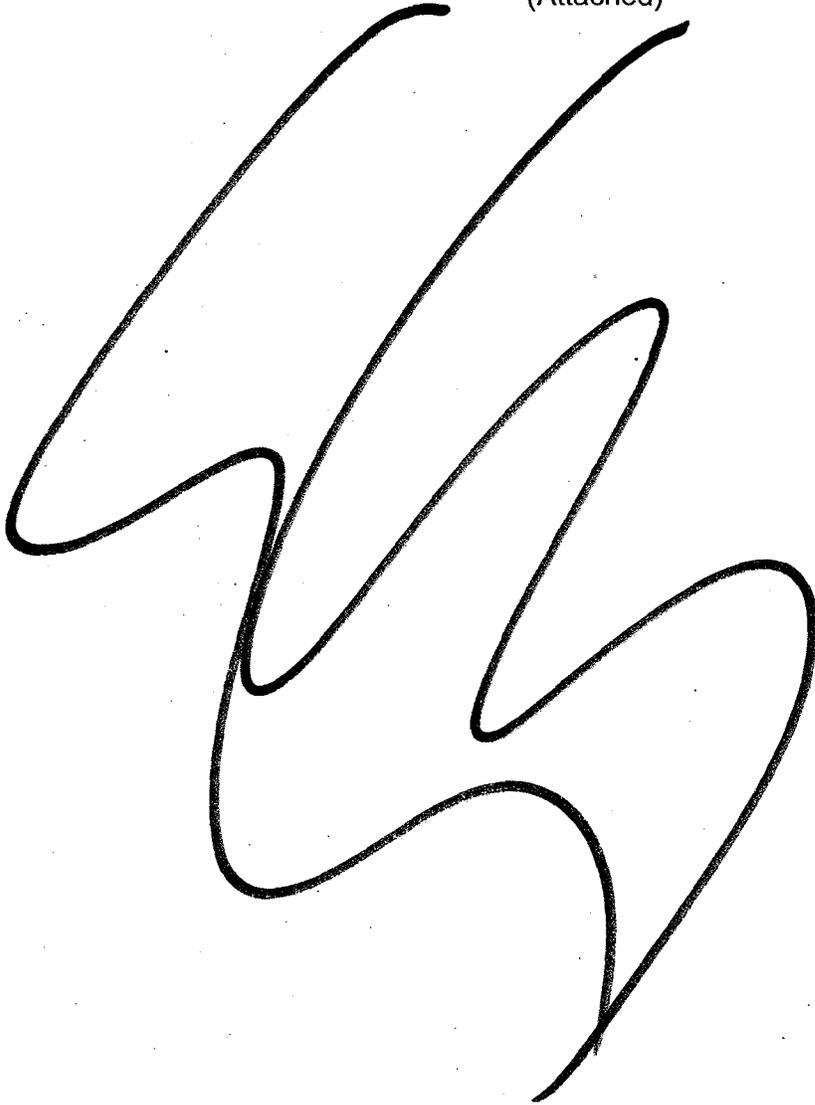
My Commission Expires: March 1, 2013

[SEAL]

EXHIBIT A

REDEVELOPMENT AREA

(Attached)



6/10/98

70503

Exhibit "A".

Legal Description Of The Area.

A tract of land comprised of parts of the southeast and southwest quarters of Section 1, part of the southeast quarter of Section 2, parts of the northeast and southeast quarters of Section 11 and parts of the northeast, northwest, southeast and southwest quarters of Section 12, all in Township 39 North, Range 13 East of the Third Principal Meridian, together with parts of the northeast, northwest, southeast and southwest quarters of Section 7, parts of the northeast, northwest, southeast and southwest quarters of Section 8, and parts of the northwest and southwest quarters of Section 9, all in Township 39 North, Range 14 East of the Third Principal Meridian, which tract of land is more particularly described as follows:

beginning at the intersection of the west line of North Union Avenue with the north line of West Lake Street, in Section 9 aforesaid; thence west along said north line of West Lake Street to the west line of North Peoria Street; thence south along said west line of North Peoria Street to the north line of West Washington Street; thence west along said north line to the east line of North Carpenter Street; thence north along said east line, and said east line extended north, crossing West Randolph Street as widened, to an intersection with the eastward extension of the north line of said widened street; thence west along said eastward extension and along said north line and said north

line extended west, crossing said North Carpenter Street, North Aberdeen Street and North May Street, to an intersection with the northward extension of the west line of said North May Street; thence south along said northward extension, and along said west line and said west line extended south, crossing said West Randolph Street and the 14.5 foot wide east/west alleys in the subdivision of Blocks 44 and 45 of Carpenter's Addition to Chicago, to the south line of the south alley; thence west along said south line and along said south line extended west, to the east line of North Racine Avenue; thence south along said east line to an intersection with the eastward extension of the aforementioned north line of West Washington Boulevard; thence west along said eastward extension and along the north line, and said north line extended west, crossing said North Racine Avenue, to the east line of North Willard Court; thence north along said east line to an intersection with the eastward extension of the south line of the 15 foot wide east/west alley in S.S. Hayes' Subdivision of Block 1 in Wright's Addition to Chicago; thence west along said eastward extension and along said south line to an intersection with the southward extension of the east line of North Elizabeth Street; thence north along said southward extension, and along said east line, crossing said 15 foot wide alley, to an intersection with the eastward extension of the south line of the 20 foot wide east/west alley in the Assessor's Division of parts of Blocks 4 and 5 in Wright's Addition to Chicago; thence west along said eastward extension, and along said south line, crossing North Elizabeth Street aforesaid, to the east line of North Ada Street; thence south along said east line to an intersection with the eastward extension of the south line of the 18 foot wide east/west alley in Malcom McNeil's Subdivision of Blocks 6, 7, and 8 of Wright's Addition, aforesaid; thence west along said eastward extension and along said south line, to the east line of North Loomis Street; thence south along said east line to an intersection with the eastward extension of the south line of the 10 foot wide east/west alley lying north of and adjacent to Lots 16 through 19, inclusive, in Union Park Addition to Chicago, a subdivision of Lots 5 and 6 in the Circuit Court Partition of the southwest quarter of Section 8 aforesaid; thence west along said eastward extension, and along said south line and said south line extended west, crossing North Loomis Street and the 16 foot wide north/south alley in Union Park Addition, to an intersection with the southwestward extension of the northwesterly line of the 18 foot wide southwest/northeast alley southeasterly of and adjacent to Lots 1 through 6 in Webster's Subdivision of Lots 6 through 15, inclusive, of Block 2 of Union Park Addition; thence northeasterly along said southwestward extension and along said northwesterly line, to the northeasterly corner of Lot 1 in said subdivision; thence northwesterly along the northeasterly line of said Lot 1 and along said line extended northwesterly, crossing North Ogden Avenue, to the northwesterly line of said avenue; thence northeasterly along said northwesterly line, to the southwesterly line of West Randolph

Street; thence northwesterly along said southwesterly line to the south line of West Lake Street; thence west along said south line to the east line of North Ashland Avenue as widened; thence westerly, crossing said avenue as widened, and passing into Section 7 aforesaid, to the intersection of the present west line of said avenue with the south line of West Lake Street as widened; thence west along said south line, and along said south line extended west, crossing the 14 foot wide vacated north/south alley in Taylor's Subdivision of Lots 1, 2 and 3 in Block 49 of the Canal Trustees' Subdivision of Section 7, North Paulina Street and North Hermitage Avenue, to an intersection with the west line of said avenue; thence north along said west line to the south line of West Lake Street; thence west along said south line, and said south line extended west, crossing North Wood Street, North Wolcott Avenue, North Damen Avenue, North Hoyne Avenue, North Leavitt Street and North Oakley Boulevard, to the east line of North Western Avenue as widened; thence westerly, passing into Section 12 aforesaid, to the intersection of the present west line of North Western Avenue with the south line of West Lake Street; thence west along south line, crossing the 16 foot wide north/south alley in the subdivision of the north half of Block 4 of Morgan's Subdivision of that part north of West Washington Street of the east 33.81 acres of the south half of the southeast quarter of Section 12, aforesaid, to the east line of North Campbell Avenue; thence south along said east line, and said east line extended south, to an intersection with the eastward extension of the south line of West Maypole Avenue; thence west along said eastward extension, and along said south line, to the west line of Lot 5 in Mary A. Morgan's Resubdivision of Lots 7 to 10 in the subdivision of the west half of Block 2 of James Morgan's Subdivision; thence north along a northward extension of said west line of Lot 5 to the south line of West Maypole Avenue; thence west along said south line, crossing railroad land, to an intersection with a line drawn parallel with, and 25 feet east from, the east line of North Talman Avenue; thence south along said parallel line crossing West Washington Boulevard, to the north line of the plat of subdivision of 4 acres in the south half of the southeast quarter of Section 12; thence west along said north line to the aforementioned east line of North Talman Avenue; thence north along said east line, and said east line extended north, crossing said West Washington Boulevard, to an intersection with the eastward extension of the south line of West Maypole Street; thence west along said eastward extension, and along said south line and said south line extended west, crossing the 16 foot wide alley in Mary Smith's Subdivision in the partition of the south half of the southeast quarter of Section 12 and North California Avenue, to the west line of said avenue; thence north along west line, to the south line of a 15 foot wide east/west alley in the subdivision of Block 16 of Lee's Subdivision of the southwest quarter of Section 12 aforesaid; thence west along said south line and along said south line extended west, crossing the 20 foot wide north/south alley in said subdivision of Block 16, North Mozart Street, and the 20 foot wide north/south alley in the west part of said subdivision, to the east line of North

Francisco Avenue; thence south along said east line of North Francisco Avenue to the north line of West Washington Boulevard; thence west along said north line of West Washington Boulevard to the west line of the east half of Lot 23 in Samuel H. Wheeler's Subdivision of Block 17 in D.S. Lee's & Others Subdivision; thence north along said west line of the east half of Lot 23 in Samuel H. Wheeler's Subdivision to the south line of the 20 foot wide east/west alley lying north of and adjoining part of Samuel H. Wheeler's Subdivision and north of and adjoining part of Flint's Addition to Chicago, both being resubdivisions of part of D.S. Lee's Subdivision; thence west along said south line and along said south line extended west, crossing North Sacramento Avenue, to an intersection with the west line of said avenue; thence south along said west line to the north line of West Washington Boulevard, aforesaid; thence west along said north line and along said north line extended west, crossing North Albany Avenue and North Kedzie Avenue, and passing into Section 11 aforesaid, to an intersection with the southward extension of the west line of North Kedzie Avenue; thence north along said southward extension, and along said west line and said west line extended north, crossing the 16 foot wide east/west alley in the subdivision of Blocks 9, 10, 12, 13, 14 and parts of Blocks 11, 15 and 16 of Castles' Subdivision of the east 15 acres of the east half of the southeast quarter of said Section 11, West Maypole Avenue, the 16 foot wide east/west alley in said Block 16 of Castles' Subdivision, West Lake Street, the 16 foot wide easterly/westerly alley in Block 12 of Tyrrell, Barrett and Kerfoot's Subdivision, of the east half of the southeast quarter of Section 11 lying north of West Lake Street, West Walnut Street, the 16 foot wide east/west alley in Block 7 of said subdivision, West Fulton Street, the 20 foot wide alley in the subdivisions of the north half and the south half of Block 6 in said subdivision, West Carroll Avenue and the 20 foot wide east/west alley south of and adjoining the south line of the Chicago and Northwestern Transportation Company right-of-way, to said south line; thence east along said south line to the centerline of North Kedzie Avenue; thence north along said centerline to a point on the north right-of-way line of the Chicago and Northwestern Transportation Company; thence west along said north right-of-way line to the aforementioned west line of North Kedzie Avenue; thence north along said west line and said west line extended north, crossing the 16 foot wide east/west alley in Block 1 of Hayward's Subdivision of the southeast quarter of the southeast quarter of the northeast quarter of Section 11 aforesaid, West Franklin Boulevard, the 16 foot wide east/west alley in the subdivision of the east half of the northeast quarter of the southeast quarter of the northeast quarter of said Section 11, West Ohio Street, West Huron Street, two 16 foot wide east/west alleys in Armington's Subdivision of the northeast quarter of the northeast quarter of the northeast quarter of said section, the vacated 16 foot wide east/west alley in said subdivision, West Chicago Avenue and passing into Section 2 aforesaid, the vacated 16 foot wide east/west alley

in N. T. Wright's Subdivision of Lot 4 of Superior Court partition, the Chicago, Milwaukee, St. Paul & Pacific Railroad right-of-way, and the 16 foot wide east/west alley north of said railroad right-of-way, and part of West Grand Avenue, to an intersection with the westward extension of the north line of West Walton Street; thence east along said westward extension and along said north line and said north line extended east, crossing North Kedzie Avenue and passing into Section 1 aforesaid, and crossing the 16 foot wide north/south alley in T. M. Oviatt's Subdivision of Lots 44 to 52, inclusive, in McIlroy's Subdivision, to the west line of North Sacramento Boulevard; thence south along a southward extension of said west line, to an intersection with the north line of Lots 53 to 57 in said McIlroy's Subdivision; thence east along the eastward extension of said north line to the east line of North Sacramento Boulevard; thence south along said east line and said east line extended south, crossing West Walton Street and the 16 foot wide east/west alley in Block 2 of B. B. Wiley's Subdivision of Block 8 of Clifford's Subdivision, to the northeasterly line of West Grand Avenue; thence southeasterly along said northeasterly line, and said northeasterly line extended southeasterly, crossing North Richmond Street, to the north line of West Chicago Avenue; thence east along said north line, and along said north line extended east, crossing North Francisco Avenue, North Mozart Street, North California Avenue, North Fairfield Avenue and North Washtenaw Avenue, to an intersection with the northward extension of the east line of North Washtenaw Avenue; thence south along said northward extension, and along said east line and said east line extended south, passing into Section 12 aforesaid and crossing West Chicago Avenue, the 16 foot wide east/west alley in the resubdivision of the subdivision of Block 3 (except the east 67 feet) in Wright and Webster's Subdivision of the northeast quarter of said Section 12, West Superior Street, the 16 foot wide east/west alley in the south part of said subdivision, West Huron Street, and the 16 foot wide easterly/westerly alley in the subdivision of that part of Block 6 lying northeasterly of West Grand Avenue in Wright and Webster's Subdivision aforesaid, to the aforementioned northeasterly line of West Grand Avenue; thence southeasterly along said northeasterly line, and along said northeasterly line extended southeasterly, crossing North Talman Avenue, to the west line of North Rockwell Avenue; thence north along said west line to an intersection with the northwestward extension of said northeasterly line as located in Block 7 of Wright and Webster's Subdivision of the northeast quarter of Section 12 aforesaid; thence southeasterly along said northwestward extension and along said northeasterly line, to the north line of vacated West Ohio Street; thence east along said north line, crossing North Campbell Avenue, to an intersection with the northward extension to the east line of said avenue; thence south along said northward extension, and along said east line, to the aforementioned northeasterly line of West Grand Avenue; thence southeasterly along said northeasterly line and along said

northeasterly line extended southeasterly and along said northeasterly line as widened, crossing North Artesian Avenue, to the west line of North Western Avenue as widened; thence easterly, crossing said North Western Avenue and passing into Section 7 aforesaid, to the intersection of the east line of said North Western Avenue with the north line of West Grand Avenue; thence east along said north line and along said north line extended east, crossing North Claremont Avenue, North Oakley Boulevard, North Leavitt Street, North Hoyne Avenue, North Damen Avenue, North Wolcott Avenue, North Wood Street, the 10 foot wide north/south alley in Block 3 of Embree's Subdivision of the northwest portion of Block 18 of Canal Trustees' Subdivision of Section 7 aforesaid, North Hartland Court, the 10 foot wide north/south alley in Block 2 of said Embree's Subdivision, North Hermitage Avenue, the 10 foot wide north/south alley in Block 1 of said subdivision, North Paulina Street, North Marshfield Avenue, North Ashland Avenue as widened, passing into Section 8 aforesaid, to the east line of North Armour Street; thence north along said east line of North Armour Street to the north line of West Ohio Street; thence east along said north line of West Ohio Street to the west line of North Bishop Street; thence south along said west line of North Bishop Street to the north line of West Grand Avenue; thence east along said north line of West Grand Avenue, to an intersection with the northward extension of the east line of said North Noble Street; thence south along said northward extension, and along said east line and said east line extended south, crossing West Grand Avenue, the 17.2 foot wide east/west alley in George E. Robbin's Subdivision of Blocks 6 and 7 of the Assessor's Division of the east half of the northwest quarter of Section 8 to the north line of West Hubbard Avenue; thence east along said north line, and said north line extended east, crossing North Ogden Avenue, North Elizabeth Street, the 12 foot wide north/south alleys in the subdivision of Blocks 2 and 3 of the subdivision of Lot E of the Circuit Court Partition of the northwest quarter of Section 8 aforesaid, North Racine Avenue, the 19 foot wide north/south alley and the 17 foot wide north/south alley in the subdivision of that part not heretofore subdivided of Block 9 of Ogden's Addition, together with Lots 25 and 26 of Circuit Court Partition of 3 acres in the southwest corner of the northeast quarter of Section 8 aforesaid, North May Street, the 16.3 foot wide north/south alley in the subdivision of Blocks 9, 10, 24 to 27, 40 to 42 and the southwest part of 43 in Ogden's Addition to Chicago, North Aberdeen Street, the 18 foot wide north/south alley in Block 11 of said Ogden's Addition, North Carpenter Street, the 18 foot wide north/south alley in Block 12 of said addition, North Morgan Street, the 18 foot wide north/south alley in Block 13 of said addition, North Sangamon Street, the vacated 18 foot wide north/south alley in Block 14 of said addition, North Peoria Street, the John F. Kennedy Expressway, the 18 foot wide north/south alley in the Assessor's Division of Lots 7 to 13 inclusive in Block 15 of said addition, North Green Street, the 18 foot wide north/south alley in Block 16

of said addition, and the west half of North Halsted Street, to the east line of the northeast quarter of Section 8 aforesaid; thence south along said east line (being the centerline of North Halsted Street) and crossing said expressway to an intersection with the westward extension of the north line of West Wayman Street; thence east along said westward extension, and along said north line, to the west line of North Union Avenue; thence south along said northward extension and along said west line and said west line extended south, crossing said West Wayman Street, West Fulton Street, West Walnut Street, to the point of beginning; in Chicago, Cook County, Illinois.

Street Boundary Description Of The Area.

The Kinzie Industrial Conservation Redevelopment Project Area lies within the area generally bounded by West Walton Street, West Chicago Avenue, West Grand Avenue, West Ohio Street and West Hubbard Street on the north; North Halsted Street, North Union Avenue and North Peoria Street on the east; West Lake Street, West Washington Boulevard, West Randolph Street and West Maypole Avenue on the south; and North Kedzie Avenue on the west.

Exhibit B

PROPERTY LEGAL DESCRIPTION

PARCEL 1: LOTS 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 AND 23 IN CAIRNDUFF AND BLAKEMAN'S SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 12, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2: THAT PART OF THE VACATED ALLEY WEST AND ADJOINING THE WEST LINE OF SAID LOTS 14 AND 15, SOUTHWESTERLY OF AND ADJOINING THE SOUTHWESTERLY LINE OF SAID LOT 15 AND NORTHEASTERLY OF AND ADJOINING THE NORTHEASTERLY LINE OF SAID LOT 20 AND NORTH OF THE NORTH LINE OF SAID LOTS 20 AND 21;

PARCEL 3: THAT PART OF THE ALLEY VACATED BY ORDINANCE PASSED JULY 28, 1961 AND RECORDED AS DOCUMENT NO: 18242403, BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 7, THENCE NORTH ALONG THE NORTHWARD EXTENSION OF THE WEST LINE OF SAID LOT 7 TO THE SOUTH LINE OF LOT 39 IN SAID CAIRNDUFF AND BLAKEMAN'S SUBDIVISION. THENCE EAST ALONG THE SOUTH LINE OF LOTS 39 AND 38 IN SAID SUBDIVISION AND THE EASTWARD EXTENSION OF THE SOUTH LINE OF SAID LOT 38 TO THE CENTER LINE OF THE NORTH AND SOUTH ALLEY LYING BETWEEN SAID LOTS 38 AND 5 IN SAID SUBDIVISION, THENCE SOUTH ALONG SAID ALLEY CENTER LINE TO THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 5, THENCE EAST ALONG SAID WESTERLY EXTENSION OF THE WEST LINE OF SAID LOT 5, THENCE SOUTH ALONG THE WEST LINE OF SAID LOTS 5 AND 6 TO THE NORTH LINE OF SAID LOT 7, THENCE WEST ALONG THE NORTH LINE OF LOT 7 TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

Permanent Index Numbers:	16-12-108-021
	16-12-108-022
	16-12-108-023
	16-12-108-027
	16-12-108-028
	16-12-108-029
	16-12-108-030
	16-12-108-031
	16-12-108-032
	16-12-108-033
	16-12-108-005
	16-12-108-006

EXHIBIT C

TIF-FUNDED IMPROVEMENTS

Property assembly costs, including acquisition of land, demolition of buildings, site preparation, site improvements that serve as engineered barriers and the clearing and grading of land; and,	\$ 2,700,000
Costs of rehabilitation, reconstruction, or repair or remodeling of existing public or private buildings.	\$ 4,700,000
TOTAL	\$ 7,400,000

EXHIBIT D

REDEVELOPMENT PLAN

[Not attached for Recording purposes.]

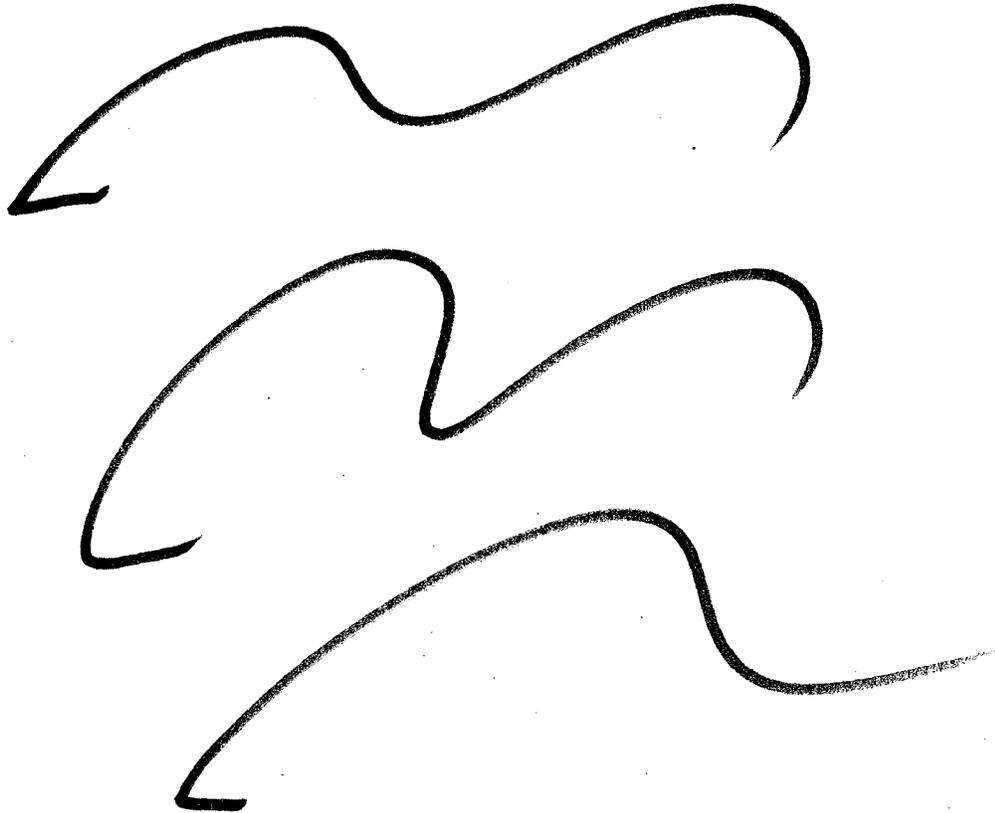


EXHIBIT E

CONSTRUCTION CONTRACT

[Not attached for Recording purposes.]

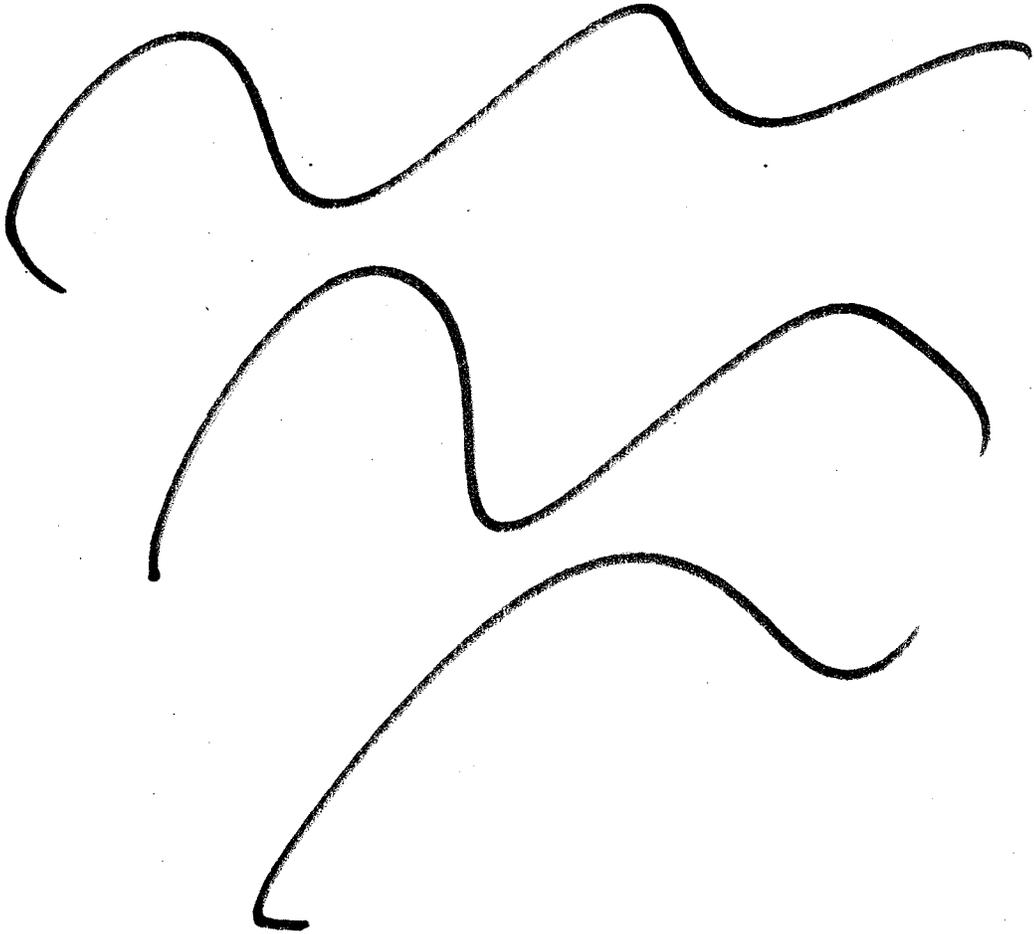


EXHIBIT F

PERMITTED LIENS

1. Liens or encumbrances against the Property:

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

2. Liens or encumbrances against the Developer or the Project, other than liens against the Property, if any: GWT is granting a "blanket lien" over all of its assets to the Senior Lender as collateral for the Senior Loan.

EXHIBIT G-1
PROJECT BUDGET

Land Acquisition	\$2,700,000
Hard Costs	
Construction of Interior Build out	\$4,700,000
Construction Contingency	\$470,000
Soft Costs	
Architectural and Engineering	\$280,000
Legal, Closing and Carry Costs	\$460,000
Furniture, Fixtures and Equipment	\$350,000
NMTC Fees	\$183,611
Project Management Fees	\$225,000
Moving Costs	\$40,000
Permits	\$25,000
Accounting/Audit	\$15,000
Other	\$783,500
Total Hard & Soft Costs	<u>\$7,532,111</u>
Total Project Costs	\$10,232,111

EXHIBIT G-2

MBE/WBE Budget

Construction of Interior Build out	\$4,700,000
Construction Contingency	\$470,000
<u>Architecture and Engineering</u>	<u>\$280,000</u>
MBE/WBE Project Budget	\$5,450,000
Minimum MBE Total=	\$1,308,000
Minimum WBE Total=	<u>\$218,000</u>
	\$1,526,000



EXHIBIT H

APPROVED PRIOR EXPENDITURES

[Not attached for Recording purposes.]

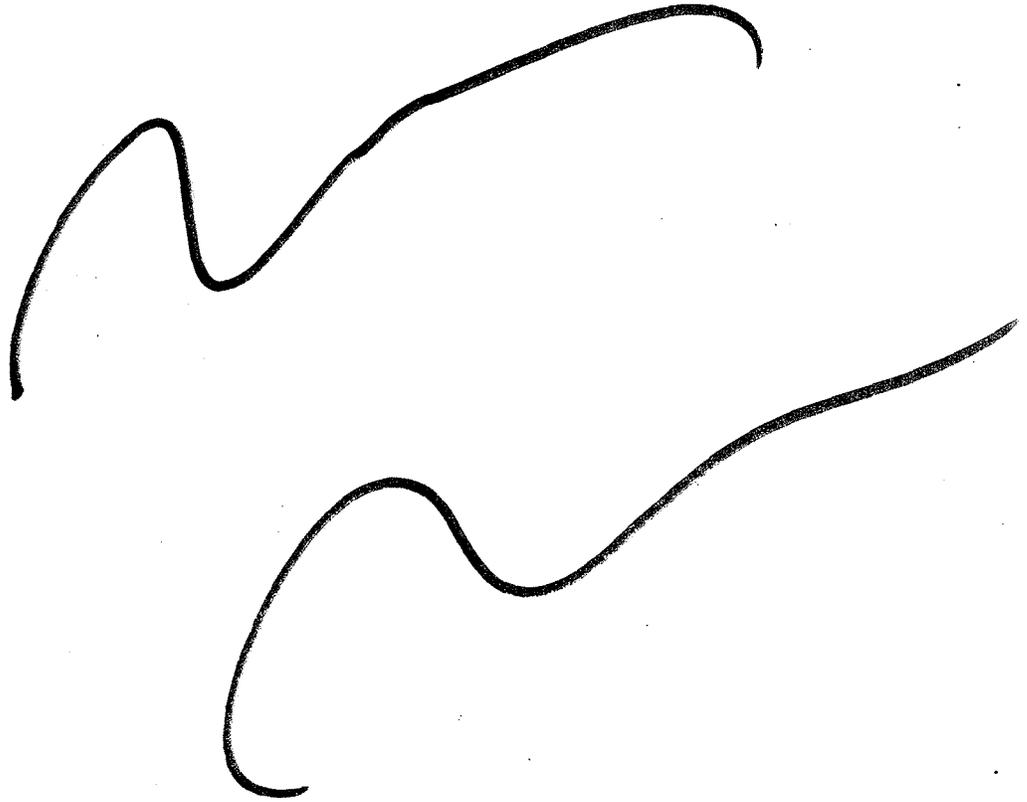


EXHIBIT I

OPINION OF DEVELOPER'S COUNSEL

[Not attached for Recording purposes.]

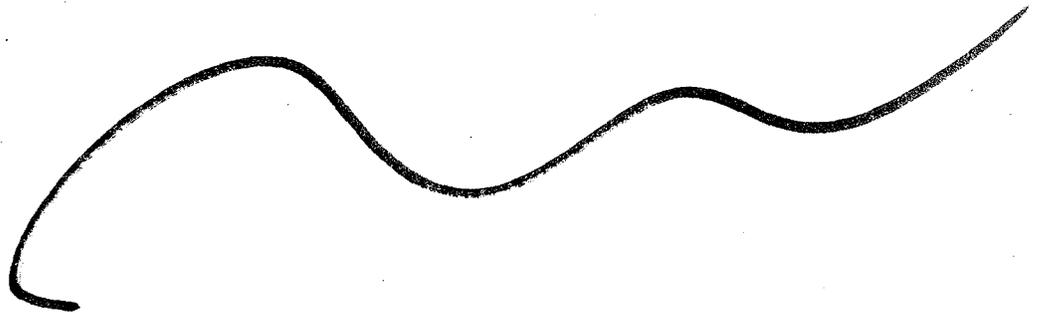


EXHIBIT J
REQUISITION FORM

[Not attached for Recording purposes.]

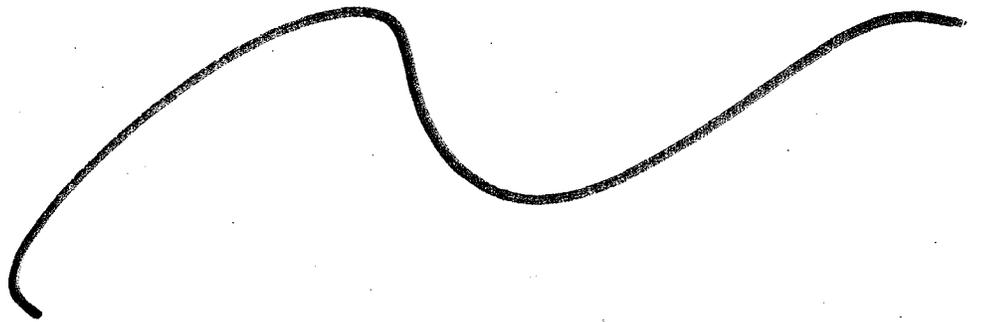
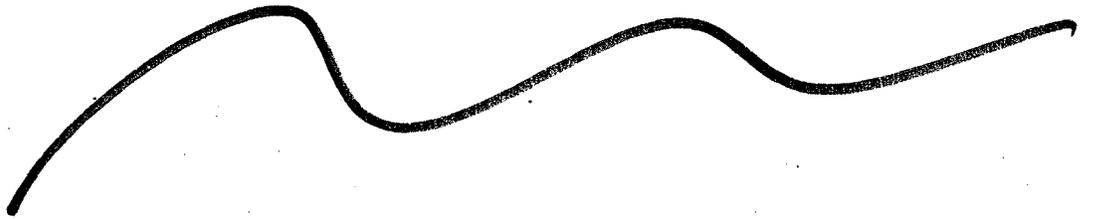


EXHIBIT K

FORM OF NOTE

REGISTERED
NO. R-1

MAXIMUM AMOUNT
\$[2,100,000]

**UNITED STATES OF AMERICA
STATE OF ILLINOIS
COUNTY OF COOK
CITY OF CHICAGO
TAX INCREMENT ALLOCATION REVENUE NOTE
(GREATER WEST TOWN COMMUNITY DEVELOPMENT PROJECT
REDEVELOPMENT PROJECT), TAXABLE SERIES A**

Registered Owner: _____

Interest Rate: ___ per annum fixed rate [equal to the [median] value of the 7-year Treasury constant maturity as published in the Federal Reserve Release for 15 business days prior to the issuance of each City Note plus 435 basis points, but in no event exceeding nine percent (9.0%)]

Maturity Date: Earlier of: the Term of the Agreement or the Note paid in full

KNOW ALL PERSONS BY THESE PRESENTS, that the City of Chicago, Cook County, Illinois (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns as hereinafter provided, on or before the Maturity Date identified above, but solely from the sources hereinafter identified, the principal amount of this Note from time to time advanced by the Registered Owner to pay costs of the Project (as hereafter defined) in accordance with the ordinance hereinafter referred to up to the principal amount of \$2,100,000 and to pay the Registered Owner interest on that amount at the Interest Rate per year specified above from the date of the advance. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. Accrued but unpaid interest on this Note shall also accrue at the interest rate per year specified above until paid.

Principal of and interest on this Note from the Available Incremental Taxes (as defined in the hereinafter defined Redevelopment Agreement) is due as follows: There shall be two

payments, each in the principal amount of \$1,050,000, with the first payment due following the issuance of a Certificate of Completion and the second payment payable following the satisfaction of the LEED certification requirement set for in Section 10.04 of the Redevelopment Agreement. Interest on this Note is due on the first day of each month and may be paid pursuant to an interest reserve established by the City and replenished as necessary from time to time. The principal of and interest on this Note are payable in lawful money of the United States of America, and shall be made to the Registered Owner hereof as shown on the registration books of the City maintained by the Comptroller of the City, as registrar and paying agent (the "Registrar"), at the close of business on the fifteenth day of the month immediately prior to the applicable payment, maturity or redemption date, and shall be paid by check or draft of the Registrar, payable in lawful money of the United States of America, mailed to the address of such Registered Owner as it appears on such registration books or at such other address furnished in writing by such Registered Owner to the Registrar; provided, that the final installment of principal and accrued but unpaid interest will be payable solely upon presentation of this Note at the principal office of the Registrar in Chicago, Illinois or as otherwise directed by the City. The Registered Owner of this Note shall note on the Payment Record attached hereto the amount and the date of any payment of the principal of this Note promptly upon receipt of such payment.

This Note is issued by the City in the principal amount of advances made from time to time by the Registered Owner up to \$2,100,000 for the purpose of paying the costs of certain eligible redevelopment project costs incurred by Great West Town Community Development Project (the "Project"), which were incurred in connection with the development of an approximately 60,734 square foot two-story building in the Kinzie Industrial Conservation Redevelopment Project Area (the "Project Area") in the City, all in accordance with the Constitution and the laws of the State of Illinois, and particularly the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-1 et seq.) (the "TIF Act"), the Local Government Debt

Reform Act (30 ILCS 350/1 et seq.) and an Ordinance adopted by the City Council of the City on June 30, 2009 (the "Ordinance"), in all respects as by law required.

The City has assigned and pledged certain rights, title and interest of the City in and to certain incremental ad valorem tax revenues from the Project Area which the City is entitled to receive pursuant to the TIF Act and the Ordinance, in order to pay the principal and interest of this Note. Reference is hereby made to the aforesaid Ordinance and the Redevelopment Agreement for a description, among others, with respect to the determination, custody and application of said revenues, the nature and extent of such security with respect to this Note and the terms and conditions under which this Note is issued and secured. **THIS NOTE IS A SPECIAL LIMITED OBLIGATION OF THE CITY, AND IS PAYABLE SOLELY FROM AVAILABLE INCREMENTAL TAXES, AND SHALL BE A VALID CLAIM OF THE REGISTERED OWNER HEREOF ONLY AGAINST SAID SOURCES. THIS NOTE SHALL NOT BE DEEMED TO CONSTITUTE AN INDEBTEDNESS OR A LOAN AGAINST THE GENERAL TAXING POWERS OR CREDIT OF THE CITY, WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION. THE REGISTERED OWNER OF THIS NOTE SHALL NOT HAVE THE RIGHT TO COMPEL ANY EXERCISE OF THE TAXING POWER OF THE CITY, THE STATE OF ILLINOIS OR ANY POLITICAL SUBDIVISION THEREOF TO PAY THE PRINCIPAL OR INTEREST OF THIS NOTE.** The principal of this Note is subject to redemption on any date, as a whole or in part, at a redemption price of 100% of the principal amount thereof being redeemed. There shall be no prepayment penalty. Notice of any such redemption shall be sent by registered or certified mail not less than five (5) days nor more than sixty (60) days prior to the date fixed for redemption to the registered owner of this Note at the address shown on the registration books of the City maintained by the Registrar or at such other address as is furnished in writing by such Registered Owner to the Registrar.

This Note is issued in fully registered form in the denomination of its outstanding principal amount. This Note may not be exchanged for a like aggregate principal amount of notes or other denominations.

This Note is transferable by the Registered Owner hereof in person or by its attorney duly authorized in writing at the principal office of the Registrar in Chicago, Illinois, but only in the manner and subject to the limitations provided in the Ordinance, and upon surrender and cancellation of this Note. Upon such transfer, a new Note of authorized denomination of the same maturity and for the same aggregate principal amount will be issued to the transferee in exchange herefor. The Registrar shall not be required to transfer this Note during the period beginning at the close of business on the fifteenth day of the month immediately prior to the maturity date of this Note nor to transfer this Note after notice calling this Note or a portion hereof for redemption has been mailed, nor during a period of five (5) days next preceding mailing of a notice of redemption of this Note. Such transfer shall be in accordance with the form at the end of this Note.

This Note hereby authorized shall be executed and delivered as the Ordinance and the Redevelopment Agreement provide.

Pursuant to the Redevelopment Agreement dated as of _____, 20__ between the City and the Registered Owner (the "Redevelopment Agreement"), the Registered Owner has agreed to acquire and have constructed the Project and to advance funds for the construction of certain facilities related to the Project on behalf of the City. The cost of such acquisition and construction in the amount of \$2,100,00 shall be deemed to be a disbursement of the proceeds of this Note.

Pursuant to Section 15.02 of the Redevelopment Agreement, the City has reserved the right to [suspend] [terminate] payments of principal and of interest on this Note upon the occurrence of certain conditions. The City shall not be obligated to make payments under this

Note if an Event of Default (as defined in the Redevelopment Agreement), or condition or event that with notice or the passage of time or both would constitute an Event of Default, has occurred. Such rights shall survive any transfer of this Note.

The City and the Registrar may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and for all other purposes and neither the City nor the Registrar shall be affected by any notice to the contrary, unless transferred in accordance with the provisions hereof.

It is hereby certified and recited that all conditions, acts and things required by law to exist, to happen, or to be done or performed precedent to and in the issuance of this Note did exist, have happened, have been done and have been performed in regular and due form and time as required by law; that the issuance of this Note, together with all other obligations of the City, does not exceed or violate any constitutional or statutory limitation applicable to the City.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed by the Registrar.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the City of Chicago, Cook County, Illinois, by its City Council, has caused its official seal to be imprinted by facsimile hereon or hereunto affixed, and has caused this Note to be signed by the duly authorized signature of the Mayor and attested by the duly authorized signature of the City Clerk of the City, all as of _____, ____.

Mayor

(SEAL)
Attest:

City Clerk

**CERTIFICATE
OF
AUTHENTICATION**

Registrar and Paying Agent
Comptroller of the
City of Chicago,
Cook County, Illinois

This Note is described in the
within mentioned Ordinance and
is the Tax Increment Allocation
Revenue Note (_____
_____ Redevelopment Project),
Taxable Series A, of the City of
Chicago, Cook County, Illinois.

Comptroller
Date:

PRINCIPAL PAYMENT RECORD

DATE OF PAYMENT PRINCIPAL PAYMENT PRINCIPAL BALANCE DUE



(ASSIGNMENT)

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto the within Note and does hereby irrevocably constitute and appoint attorney to transfer the said Note on the books kept for registration thereof with full power of substitution in the premises.

Dated:

Registered Owner

NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears upon the face of the Note in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed:

Notice: Signature(s) must be guaranteed by a member of the New York Stock Exchange or a commercial bank or trust company.

Consented to by:

CITY OF CHICAGO
DEPARTMENT OF COMMUNITY DEVELOPMENT

BY: _____

ITS: _____

CERTIFICATION OF EXPENDITURE

_____, 20__
(Closing Date)

To: Registered Owner

Re: City of Chicago, Cook County, Illinois (the "City")
\$ _____ Tax Increment Allocation Revenue Note
(Greater West Town Community Development Project Redevelopment Project, Taxable Series A)(the "Redevelopment Note")

This Certification is submitted to you, Registered Owner of the Redevelopment Note, pursuant to the Ordinance of the City authorizing the execution of the Redevelopment Note adopted by the City Council of the City on _____, 20__ (the "Ordinance"). All terms used herein shall have the same meaning as when used in the Ordinance.

The City hereby certifies that \$ _____ is advanced as principal under the Redevelopment Note as of the date hereof. Such amount has been properly incurred, is a proper charge made or to be made in connection with the redevelopment project costs defined in the Ordinance and has not been the basis of any previous principal advance. As of the date hereof, the outstanding principal balance under the Redevelopment Note is \$ _____, including the amount of this Certificate and less payment made on the Note.

IN WITNESS WHEREOF, the City has caused this Certification to be signed on its behalf as of this date.

CITY OF CHICAGO

By: _____

Commissioner
Department of Community Development

AUTHENTICATED BY:

REGISTRAR

EXHIBIT L

FORM OF SUBORDINATION AGREEMENT

[Not Applicable.]

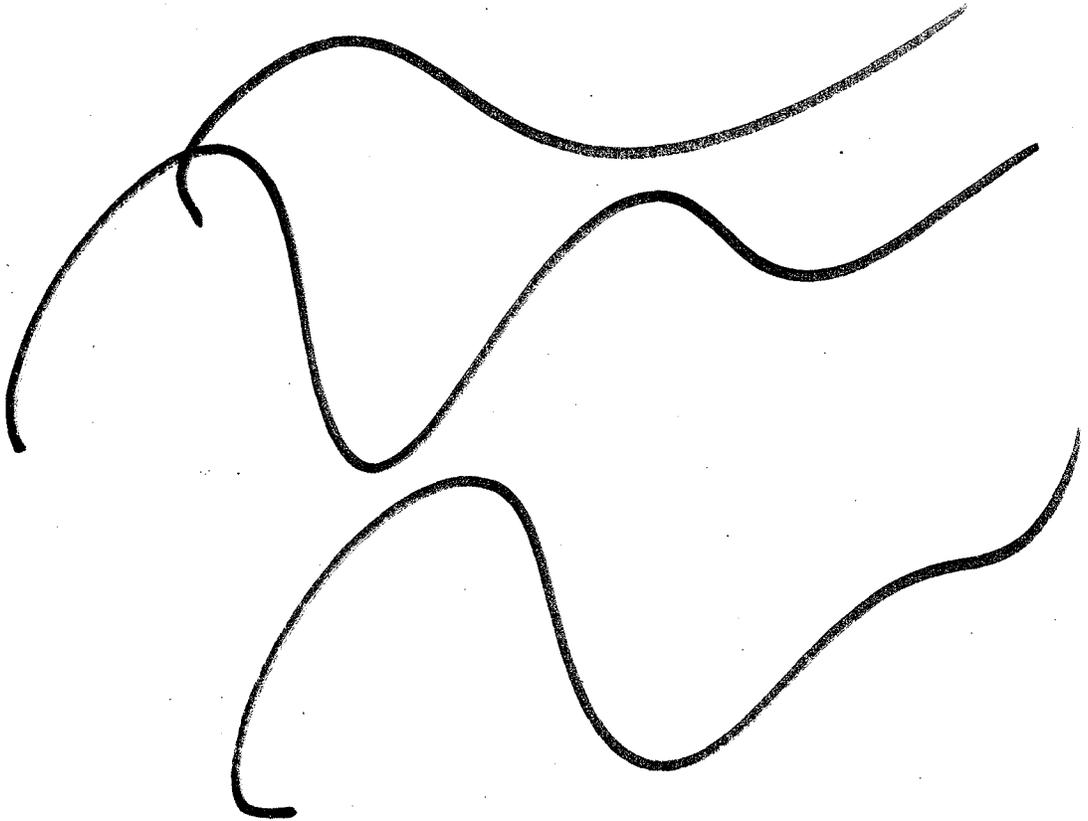


EXHIBIT M

FORM OF PAYMENT BOND

[Not attached for Recording purposes.]

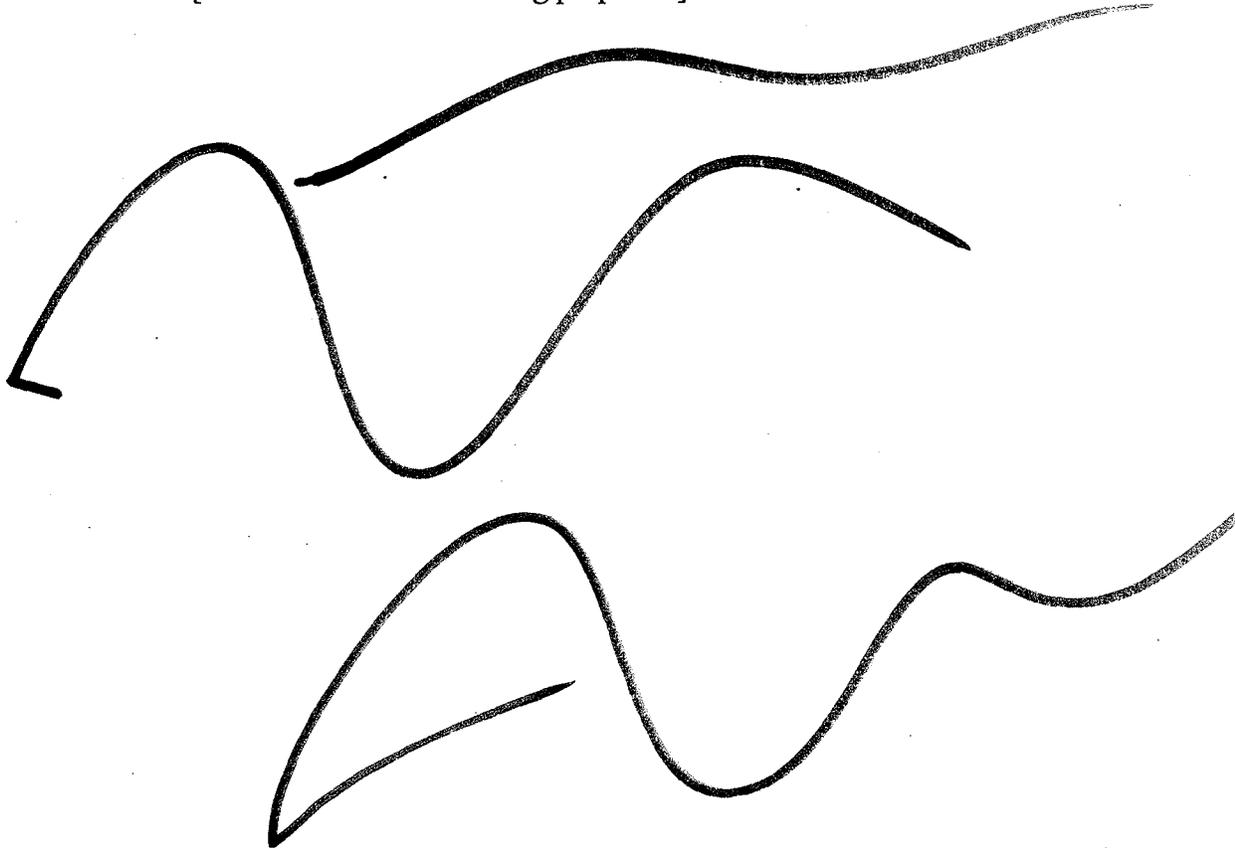


EXHIBIT N

FORM OF JUNIOR MORTGAGE

[Not attached for Recording purposes.]

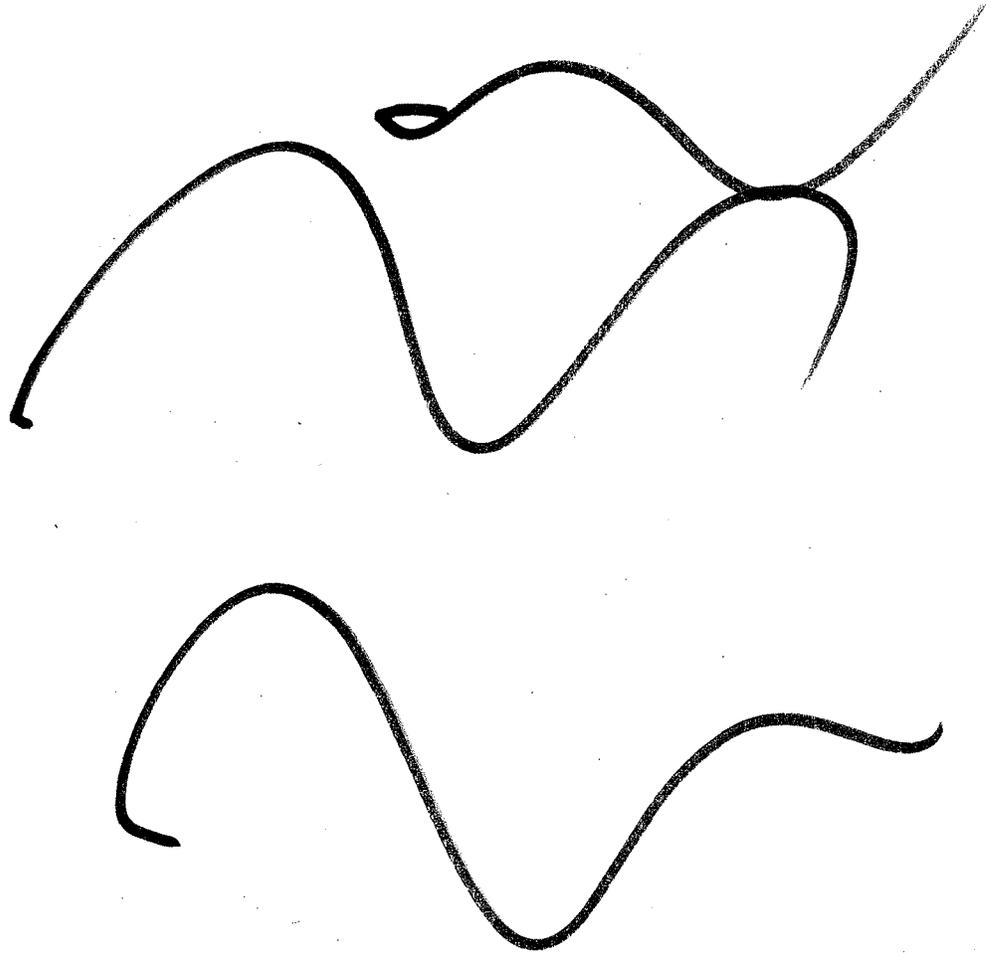


EXHIBIT O

FORM OF GUARANTY

[Not attached for Recording purposes.]

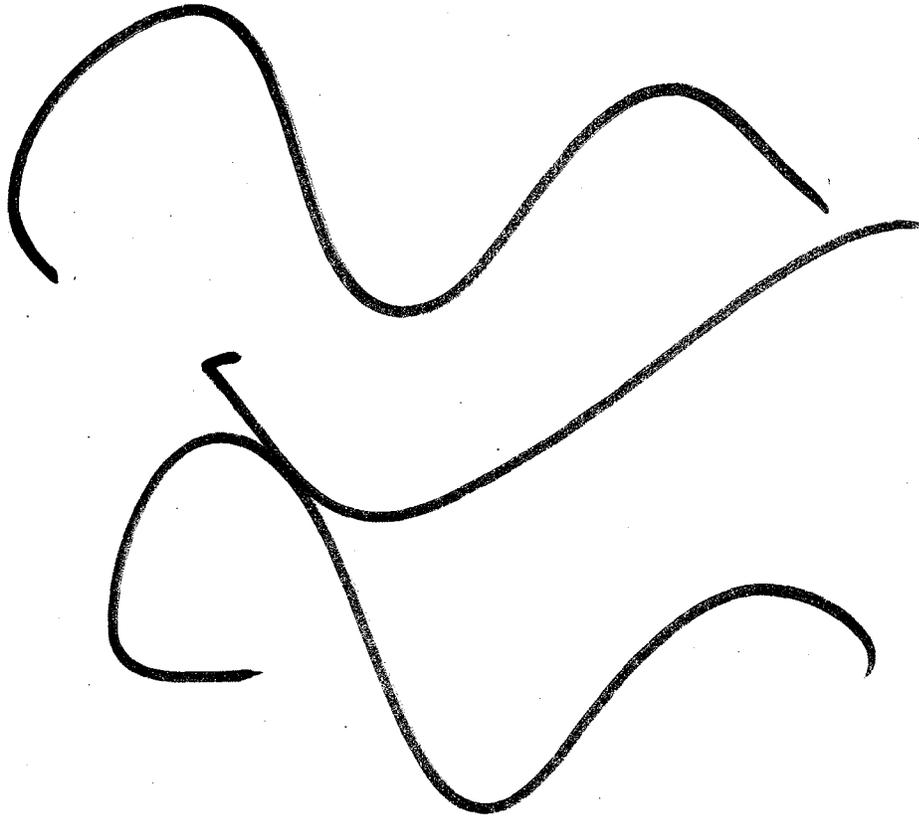


EXHIBIT P

Prior Obligations in the Redevelopment Area

Erie Cooperative Limited Partnership	\$ 1,000,000
Greenworks	\$ 1,600,000
City Escape	\$ 425,000
Coyne American Institute	\$ 3,300,000
CB2	\$ 3,400,000
Board of Education- MSAC Phase I	\$21,223,387
West Humboldt Park Library/PBC	\$12,755,399
Chicago Transit Authority- Lake/Morgan	\$27,800,000
Chicago Public Schools/ADA	\$ 1,500,000
TIF Works	\$ 300,000
Small Business Improvement Fund	<u>\$ 1,994,098</u>
Total	\$75,297,884