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Eugene "Gene" Moore
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This agreement was prepared by and
after recording return to:
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MLRP 401 CICERO, LLC REDEVELOPMENT AGREEMENT

This MLRP 401 Cicero, LLC Redevelopment Agreement (this "**Agreement**") is made as of this 23rd day of December, 2008, by and between the City of Chicago, an Illinois municipal corporation (the "**City**"), through its Department of Planning and Development ("**DPD**"), and MLRP 401 Cicero, LLC, a Delaware limited liability company (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.

PINS:

16-10-109-015-0000; 16-10-109-017-0000; 16-10-109-018-0000; 16-10-109-020-0000; 16-10-110-039-0000;
16-10-110-044-0000; 16-10-110-045-0000; 16-10-111-036-0000; 16-10-112-048-0000; 16-10-113-006-0000;
16-10-113-013-0000; 16-10-113-015-0000; 16-10-113-016-0000; 16-10-114-038-0000; 16-10-501-004-0000

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 December 2, 1998: (1) "An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the Northwest Industrial Corridor Redevelopment Project Area" (the "**Approving Ordinance**"); (2) "An Ordinance of the City of Chicago, Illinois Designating the Northwest Industrial Corridor 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 Northwest Industrial Corridor 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:** The Developer, has purchased (the "**Acquisition**") certain property located within the Redevelopment Area at 401 North Cicero Avenue, Chicago, Illinois 60644 and legally described on **Exhibit B** hereto (the "**Property**"), and, within the time frames set forth in **Section 3.01** hereof, shall commence and complete construction of the following, collectively referred to herein as the "**Facility**": an approximately 520,775 square foot, LEED certified distribution/light industrial facility (core and shell only) designed for a single tenant or subdivided for multiple tenants with at least 80 dock bays, trailer storage, approximately 200 off-street parking spaces and a storm water management system. 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 Project will not include a green roof, which may otherwise be required as set forth in the City's "Green Building/Green Roof Initiative". 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 Northwest Industrial Corridor Redevelopment Project Area Redevelopment Plan and Project (the "**Redevelopment Plan**"), attached hereto as **Exhibit D**, and the Northwest Planned Manufacturing District Number Nine.

F. **City Financing:** The City agrees to use, in the amounts set forth in **Section 4.03** hereof, (i) the proceeds of the City Notes (defined below) and/or (ii) Incremental Taxes (as defined below), to pay for or reimburse the Developer for the costs of TIF-Funded Improvements pursuant to the terms and conditions of this Agreement and the City Notes.

In addition, the City may, in its discretion, issue tax increment allocation bonds ("**TIF Bonds**") secured by Incremental Taxes pursuant to a TIF bond ordinance (the "**TIF Bond Ordinance**") at a later date, the proceeds of which may be used to pay for the costs of the TIF-Funded Improvements not previously paid for from Incremental Taxes (including any such payment made pursuant to any City Note provided to the Developer pursuant to this Agreement), to make payments of principal and interest on the City Note, or in order to reimburse the City for the costs of TIF-Funded Improvements.

G. **Prior Obligations:** Pursuant to an ordinance adopted by the City Council on December 13, 2006, as may be amended or supplemented (the "**Modern Schools Across Chicago Bond Ordinance**"), the City intends to issue one or more series of general obligation bonds (the "**Modern Schools Across Chicago Bonds**") as a means of financing certain redevelopment project costs (as defined in the Act) incurred pursuant to the Redevelopment Plan, including but not limited to the construction and/or rehabilitation of a public school or schools located

in the Redevelopment Area and/or a "redevelopment project area" under Section 3(p) of the Act that is either contiguous to, or is separated only by a public right of way from the Redevelopment Area pursuant to Section 4(q) of the Act and Section VII(C) of the Redevelopment Plan. It is the City's intention to pay scheduled principal and interest on the Modern Schools Across Chicago Bonds, in whole or in part, out of Incremental Taxes (as such term is defined below), amongst other sources, pursuant to the Act.

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.

"Actual residents of the City" shall mean persons domiciled within the City.

"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 the Developer.

"Available Incremental Taxes" shall mean an amount equal to 97.5% of the Incremental Taxes deposited in the Northwest Industrial Corridor Redevelopment Project Area TIF Fund attributable to the taxes levied on the Property.

"Average Minimum Occupancy" shall have the meaning set forth in **Section 8.06** hereof.

"Certificate" shall have the meaning set forth 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 3.03**, **Section 3.04** and **Section 3.05**, respectively.

"City" shall mean the City of Chicago, Illinois.

"City Contract" shall have the meaning set forth in **Section 8.01(I)** hereof.

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

"City Funds" shall mean the funds described in **Section 4.03(b)** hereof.

"City Funds" shall mean the funds paid to the Developer pursuant to the City Note.

"City Note A" shall mean the City of Chicago Tax Increment Allocation Revenue Note (Northwest Industrial Corridor Redevelopment Project Area), Taxable Series 20__ A, to be in the form attached hereto as **Exhibit M-1**, in a maximum principal amount of \$3,900,000, issued by the City to the Developer upon issuance of the Phase I Certificate, bearing interest upon issuance at the City Note A Interest Rate, and as more fully described in **Section 4.03** hereof.

"City Note B" shall mean the City of Chicago Tax Increment Allocation Revenue Note (Northwest Industrial Corridor Redevelopment Project Area), Taxable Series 200_ B, to be in the form attached hereto as **Exhibit M-2**, in the maximum principal amount of: \$6,700,000, issued by the City to the Developer as herein set forth upon the issuance of the Phase II Certificate, bearing interest upon issuance at the City Note B Interest Rate, and as more fully described in **Section 4.03** hereof.

"City Note A Interest Rate" shall mean an interest rate equal to the median value of the 10-year Treasury constant maturity as published in the Federal Reserve Release for 15 business days prior to the issuance of City Note A plus 250 basis points, but in no event exceeding 8.0%.

"City Note B Interest Rate" shall mean an interest rate equal to the median value of the 10-year Treasury constant maturity as published in the Federal Reserve Release for 15 business days prior to the issuance of City Note B plus 250 basis points, but in no event exceeding 8.0%.

"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, substantially in the form attached hereto as **Exhibit E**, to be entered into between the Developer and the General Contractor providing for construction of the Project.

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

"Department" as used in **Section 8.09** shall mean the Illinois Department of Labor.

"DPD" shall mean the City's Department of Planning and Development.

"Developer" shall mean MLRP 401Cicero, LLC.

"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 4.06** (Cost Overruns) or **Section 4.07(g)**.

"**Escrow**" shall mean the construction escrow established pursuant to the Escrow Agreement.

"**Escrow Agreement**" shall mean the Escrow Agreement establishing a construction escrow, to be entered into as of the date hereof by the City, the Title Company (or an affiliate of the Title Company), the Developer and the Developer's lender(s), substantially in the form of **Exhibit F** attached hereto.

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

"**Excess Incremental Taxes**" shall mean Incremental Taxes less amounts pledged by the City for (a) the Modern Schools Across Chicago Bonds and (b) any private development, receiving any DPD financial assistance that enters into any agreement with the City related to such assistance prior to or subsequent to the Closing Date, up to amounts that do not exceed the incremental ad valorem taxes attributable to that development.

"**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 the general contractor(s) hired by the Developer pursuant to **Section 6.01**.

"**Governmental Charge**" shall have the meaning set forth in **Section 8.19(a)(i)**

"**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.

"**Human Rights Ordinance**" shall have the meaning set forth in **Section 10** hereof.

"**In Balance**" shall have the meaning set forth in **Section 4.07(g)** hereof.

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

Special Tax Allocation Fund established to pay Redevelopment Project Costs and obligations incurred in the payment thereof.

"Indemnitee" or **"Indemnitees"** shall have the meaning set forth in **Section 13.01** hereof.

"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, related to the Procurement Program or the Construction Program, as applicable.

"MBE/WBE Budget" shall mean the budget attached hereto as **Exhibit H-2**, as described in **Section 10.03**.

"MBE/WBE Program" shall have the meaning set for in **Section 10.03(a)** hereof.

"Minimum Occupancy" as used in **Section 8.06** hereof, shall mean the occupancy of not less than 60 percent of the net leasable square footage of the Project.

"Minimum Assessed Value" shall have the meaning set forth in **Section 8.19(c)(i)** hereof.

"MOWD" shall mean the Mayor's Office on Workforce Development, or successor office thereto.

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

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

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

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

"Phase I" shall mean the completion of construction of the core and shell of the Facility, as further described in **Recital D** hereto.

"Phase II" shall mean the leasing of 60% of the total net rentable floor area of the Facility, as evidenced by executed leases, and the occupancy of 30% of the total net rentable floor area of the Facility.

"Phase I Certificate" shall mean the certificate of completion that the City may issue with respect to completion of Phase I pursuant to **Section 7.01** hereof.

"Phase II Certificate" shall mean the certificate of completion that the City may issue with respect to completion of Phase II pursuant to **Section 7.01** hereof.

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 4.05(a)** hereof.

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

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

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

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 L**, to be delivered by the Developer to DPD 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.

Survey shall mean a Class A plat of survey in the most recently revised form of ALTA/ACSM land title 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 on earlier to occur of (a) the date that the City Note A and City Note B have been fully paid; provided, however, that if the date of full repayment occurs prior to the 10-year anniversary of the issuance of the Phase II Certificate, the outside date of term shall be date of the 10-year anniversary of the Phase II Certificate, unless such period is extended pursuant to Section 15.04 and (b) the date which the Redevelopment Area is no longer in effect (through and including December 2, 2021).

TIF Bonds shall have the meaning set forth in Recital F and **Section 8.05** 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 Tigor Title Insurance Company or other such other title company as may reasonably be acceptable to the City.

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

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

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

SECTION 3. THE PROJECT

3.01 The Project. With respect to the Project, 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 May 31, 2010; and (ii) substantially complete construction no later than April 30, 2011. Upon request from the Developer, the Commissioner may extend the commencement date and/or the completion dates 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 DPD and DPD has approved same. After such initial approval, subsequent proposed changes to the Scope Drawings or Plans and Specifications shall be submitted to DPD 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 Building Department, 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 DPD, and DPD has approved, a Project Budget showing total costs for the Project in an amount not less than Forty-Two Million Six Hundred Seventy-Six Thousand Six Hundred Nine Dollars (\$42,676,609). The Developer hereby certifies to the City that it has Lender Financing and Equity described in **Section 4.02** hereof, shall be sufficient to pay all Project costs; and (b) the Project Budget is true, correct and complete in all

material respects. The Developer shall promptly deliver to DPD 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 DPD concurrently with the progress reports described in **Section 3.07** hereof; provided, that any Change Order relating to any of the following must be submitted by the Developer to DPD for DPD's prior written approval: (a) a reduction in the square footage of the Facility by five percent (5%) or more; (b) a change in the use of the Property; (c) a reduction in excess of 10% of the Equity in the Project Budget; or (d) a delay in the commencement or completion of the Project by more than 90 days, however, a delay in the commencement or completion of the Project by more than 90 days and less than 18 months is not subject to **Section 18.01**. 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 DPD'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 which the City has pledged pursuant to this Agreement or provide any other additional assistance to the Developer.

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

3.06 Other Approvals. Any DPD 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 DPD'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. After commencement of construction, the Developer shall provide DPD with: 1) written progress reports on a quarterly basis detailing the status of the Project, including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring DPD's written approval pursuant to **Section 3.04**) and duplicates of applicable support documentation verifying the disbursement and receipt of Project funds (i.e. invoices, canceled checks, partial and final waivers-of-lien, etc.); 2) monthly reports on MBE/WBE utilization, Prevailing Wage and City Residency (based on expenditures to-date); 3) if applicable, a report which includes a plan by the Developer to address any shortfall; and 4) three (3) copies of an updated Survey upon the request of DPD or any lender providing Lender Financing, reflecting improvements made to the Property. The City retains the right to review draw requests which must be accompanied by, among other things, invoices, canceled checks, lien waivers, owner's sworn statements, general contractor's sworn statements and MBE/WBE subcontractor contract amounts and certification letters as a prerequisite to disbursement.

3.08 Inspecting Agent or Architect. An independent agent or architect (other than the Developer's architect) approved by DPD 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. DPD 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 Forty-Two Million Six Hundred Seventy-Six Thousand Six Hundred Nine Dollars (\$42, 676,609), 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>)	\$17,070,644
Lender Financing	<u>25,605,965</u>
ESTIMATED TOTAL	\$ 42,676,609

4.02 Developer Funds. Equity and/or Lender Financing may be used to pay any Project cost, including but not limited to Redevelopment Project Costs

4.03 City Funds.

(a) Uses of City Funds. City Funds may only be used to pay directly or reimburse the Developer 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(d)**), contingent upon receipt by the City of documentation satisfactory in form and substance to DPD evidencing such cost and its eligibility as a Redevelopment Project Cost.

(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 the Developer for TIF-Funded Improvements for the lesser of Ten Million Six Hundred Thousand Dollars (\$10,600,000) or 25.2% of the Project Budget (the "**City Funds**"). The City's financial commitment will be as follows:

(i) City Note A. The City will issue taxable City Note A to the Developer upon the issuance of the Phase I Certificate in an initial principal amount not to exceed the lesser of Three Million Nine Hundred Thousand Dollars (\$3,900,000) or an amount equal to the costs of the TIF-eligible expenses which have been incurred by the Developer by the date of the issuance of City Note A, as evidenced by a Certificate of Expenditure issued by the City. Interest on City Note A will accrue at the City Note A Interest Rate upon issuance, as more fully described in **Exhibit M-1** attached hereto, and will compound annually. City Note A shall be payable upon its issuance in accordance with an amortization schedule attached to City Note A on the date of issuance, provided that after the date of issuance of the Phase II Certificate, payments shall be made only upon Developer's compliance with **Section 8.06** herein.

(ii) City Note B. The City will issue taxable City Note B to the Developer upon the issuance of the Phase II Certificate in an initial principal amount not to exceed the lesser of Six Million Seven Hundred Thousand Dollars (\$6,700,000) or the amount of TIF-eligible expenses incurred by the Developer on the Project on the date of issuance of City Note B and not attributed to City Note A, as evidenced by a Certificate of Expenditure issued by the City. Interest on City Note B will accrue at the City Note B Interest Rate upon issuance, as more fully described in **Exhibit M-2** attached hereto, and will compound annually. City Note B shall be payable in accordance with an amortization schedule attached to City Note B on the date of issuance.

(iii) Priority of Liens. (A) Prior to the issuance of City Note B, City Note A (1) shall be payable from Available Incremental Taxes, and to the extent that Available Incremental Taxes are insufficient to pay debt service on City Note A, the balance of the payment shall be made from Excess Incremental Taxes; (2) shall have a first lien on Available Incremental Taxes and Excess Incremental Taxes. (B) After the issuance of City Note B, (1) 50% of the Available Incremental Taxes shall be allocated to pay City Note A and 50% of the Available Incremental Taxes shall be allocated to pay City Note B; (2) to the extent that Available Incremental Taxes are insufficient to pay the annual debt service on City Notes A and B, the balance of the payments shall be made from Excess Incremental Taxes; (3) City Note A will have a lien on a parity basis with City Note B on Available Incremental Taxes and on Excess Incremental Taxes; and (C) after the repayment of City Note A and City Note B remains

outstanding (1) City Note B shall be payable from Available Incremental Taxes, and to the extent that Available Incremental Taxes are insufficient to pay debt service on City Note B, the balance of the payment shall be made from Excess Incremental Taxes; (2) City Note B shall have a first lien on Available Incremental Taxes and Excess Incremental Taxes.

(iv) Lock-Out Period. The City may not prepay, without the Developer's consent, i) City Note A from the date of issuance of City Note A for a period of five years (the "**Note A Lock-Out Period**") or i) City Note B from the date of issuance of the City Note B for a period of five years (the "**Note B Lock-Out Period**"). In the event Available Incremental Taxes and/or Excess Incremental Taxes are more than sufficient to pay the scheduled annual payment (and no shortfall amounts remain unpaid), the City, in its sole discretion, may elect to use such excess Available Incremental Taxes and/or Excess Incremental Taxes to i) prepay City Note A after the Note A Lock-Out Period expires, or ii) prepay City Note B after the Note B Lock-Out Period expires, or iii) for any other legal use that the City may deem necessary or appropriate.

(v) Note Pledge, Assignment, Sale. After issuance, City Note A and/or City Note B may be assigned or pledged as collateral to any party providing Lender Financing upon 30 days notice to the City. The Developer may sell City Note A and/or City Note B, 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, the Developer 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 Developer.

4.04 Requisition Form

On the Closing Date and prior to each November 1 (or such other date as the parties may agree to) thereafter, beginning in the calendar year in which construction is substantially completed and continuing throughout the earlier of (i) the Term of the Agreement or (ii) the date that the Developer has been reimbursed in full under this Agreement, the Developer shall provide DPD with a Requisition Form for City Note A and/or City Note B, as applicable, 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 DPD).

4.05 Treatment of Prior Expenditures and Subsequent Disbursements.

(a) Prior Expenditures. Only those expenditures made by the Developer with respect to the Project prior to the Closing Date, evidenced by documentation satisfactory to DPD and approved by DPD as satisfying costs covered in the Project Budget, shall be considered previously contributed Equity or Lender Financing hereunder (the "**Prior Expenditures**"). DPD shall have the right, in its sole discretion, to disallow any such expenditure as a Prior Expenditure. Exhibit I hereto sets forth the prior expenditures approved by DPD as of the Closing Date as Prior Expenditures. Prior Expenditures made for items other than TIF-Funded Improvements shall not be reimbursed to the Developer, 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 and transfers of costs and expenses from one line item to another shall be permitted subject to the terms of Section 3.04.

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, the Developer shall submit documentation regarding the applicable expenditures to DPD, which shall be satisfactory to DPD in its sole discretion. Delivery by the Developer 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 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) the Developer 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 the Developer 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 the Developer. In addition, the Developer 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. 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 7.03 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 DPD, and DPD 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 DPD, and DPD 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 DPD.

5.04 Financing. The Developer has furnished proof reasonably acceptable to the City that the Developer 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 Developer 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 DPD a copy of the construction escrow agreement 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 Developer has furnished the City with a copy of the Title Policy for the Property, certified by the Title Company, showing the Developer as the named insured. The Title Policy is dated as of the Closing Date and contains only those title exceptions listed as Permitted Liens on Exhibit G 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 DPD, 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 DPD'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 (and the following trade names of the Developer: ML Realty Partners LLC) 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 DPD.

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 J**, 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 J** hereto, such opinions were obtained by the Developer from its general corporate counsel.

5.10 Evidence of Prior Expenditures. The Developer has provided evidence satisfactory to DPD in its sole discretion of the Prior Expenditures in accordance with the provisions of **Section 4.05(a)** hereof.

5.11 Financial Statements. The Developer has provided Financial Statements to DPD for its most recent fiscal year, and audited or unaudited interim financial statements.

5.12 Documentation. The Developer has provided documentation to DPD, satisfactory in form and substance to DPD, with respect to current employment matters.

5.13 Environmental. The Developer has provided DPD with copies of that certain phase I environmental audit completed with respect to the Property and any phase II environmental audit with respect to the Property required by the City. 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. The Developer has provided a copy of its Articles of Organization containing the original certification of the Secretary of State of Illinois; the Operating Agreement; a certificate of good standing from the Secretary of State

of Illinois; a secretary's certificate regarding authorization, incumbency and other matters in such form and substance as the Corporation Counsel may require; and such other documentation as the City has requested. The Developer has provided to the City an Economic Disclosure Statement for the Developer and such other entities as may be required by Corporation Counsel in the City's current form dated (or re-certified) as of the Closing Date.

5.15 Litigation. The Developer has provided to Corporation Counsel and DPD, 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.

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 DPD for its inspection and written approval. (i) For the TIF-Funded Improvements, the Developer shall select the General Contractor (or 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 Developer selects a General Contractor (or 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. (ii) For Project work other than the TIF-Funded Improvements, if the Developer selects a General Contractor (or the General Contractor selects any subcontractor) who has not submitted the lowest responsible bid, the difference between the lowest responsible bid and the higher bid selected shall be subtracted from the actual total Project costs for purposes of the calculation of the amount of City Funds to be contributed to the Project pursuant to **Section 4.03(b)** hereof. The Developer shall submit copies of the Construction Contract to DPD 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 DPD within five (5) business days of the execution thereof. The Developer shall ensure that the General Contractor shall not (and 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 DPD 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 6% 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. Prior to the execution thereof, the Developer shall deliver to DPD a copy of the proposed Construction Contract with the General Contractor selected to handle the Project in accordance with **Section 6.01** above, for DPD's prior written approval, which shall be granted or denied within ten (10) business days after delivery thereof. Within ten (10) business days after execution of such contract by the Developer, the General Contractor and any other parties

thereto, the Developer shall deliver to DPD and Corporation Counsel a certified copy of such contract together with 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 using a bond in the form attached as Exhibit P hereto. The City shall be named as obligee or co-obligee on any such bonds.

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 Section 10 obligations may be satisfied 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), Section 10.03 (MBE/WBE Requirements, as applicable), 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 DPD 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. Upon completion of the applicable component of the Project in accordance with the terms of this Agreement, and upon the Developer's written request, DPD shall issue to the Developer a Phase I Certificate and Phase II Certificate (each a "Certificate") in recordable form certifying that the Developer has fulfilled its obligation to complete the applicable component of the Project in accordance with the terms of this Agreement.

- (a) The Phase I Certificate will not be issued until:
 - (i) the Developer has notified the City in writing that Phase I has been completed as defined in this Agreement;
 - (ii) the Developer has received a Certificate of Occupancy or other evidence acceptable to DPD that the Developer has complied with building permit requirements;
 - (iii) the City's Monitoring and Compliance Unit has verified that the Developer is in full compliance with City requirements set forth in Section 10 (M/WBE, City Residency, Prevailing Wage) with respect to construction of the Project;
 - (iv) the Developer has submitted evidence that it has incurred TIF-eligible costs, to be determined solely by DPD, in an amount equal to or greater than the total amount of City assistance for Phase I;

- (v) the Developer has submitted evidence that the Developer and the General Contractor have met with MOWD to identify construction training and job opportunities in connection with the construction of the Project; and
 - (vi) evidence that the Developer has provided the Public Benefits as set forth on Exhibit N.
- (b) The Phase II Certificate will not be issued until:
- (i) the Developer has notified the City in writing that Phase II has been completed as defined in this Agreement;
 - (ii) the Developer has submitted copies of executed leases for 60% or more of the total net rentable floor area of the Facility and evidence that 30% of the net rentable floor area is occupied and open for business;
 - (iii) the City's Monitoring and Compliance Unit has verified that the Developer is in full compliance with City requirements set forth in Section 10 (M/WBE, City Residency, Prevailing Wage) with respect to construction of the Project;
 - (iv) the Developer has submitted evidence that it has incurred TIF-eligible costs, to be determined solely by DPD, in an amount equal to or greater than the total amount of City assistance for Phase II; and
 - (v) the Developer has submitted a copy of each letter to each of its tenant encouraging each tenant to meet with MOWD to identify job training and employment opportunities in connection with the operation of each tenant's respective business in the Facility.

DPD 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 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.

7.02 Effect of Issuance of Certificate; Continuing Obligations. Each Certificate relates only to the construction of the applicable component 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 a 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, 8.06, 8.19 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 the Phase II Certificate; provided, that upon the issuance of the Phase II 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

the Phase II 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, any of the following rights and remedies:

(a) the right to terminate this Agreement and cease all disbursement of City Funds not yet disbursed pursuant hereto;

(b) the right (but not the obligation) to complete those TIF-Funded Improvements that are public improvements and to pay for the costs of TIF-Funded Improvements (including interest costs) out of City Funds or other City monies. In the event that the aggregate cost of completing the TIF-Funded Improvements exceeds the amount of City Funds available pursuant to **Section 4.01**, the Developer shall reimburse the City for all reasonable costs and expenses incurred by the City in completing such TIF-Funded Improvements in excess of the available City Funds; and

(c) the right to seek reimbursement of the City Funds from the Developer.

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

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

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

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

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

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

(d) unless otherwise permitted or not prohibited pursuant to or under the terms of this Agreement, the Developer 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 Developer 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) 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) 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 the Phase II Certificate, the Developer shall not do any of the following without the prior written consent of DPD: (1) be a party to any merger, liquidation or consolidation, except with an Affiliate; (2) enter into any transaction outside the ordinary course of the Developer's business; (3) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity; (4) enter into any transaction that would cause a material and detrimental change to the Developer's financial condition; or (5) for a period of five (5) years from the issuance of the Phase II Certificate, and subject to Section 18.15, sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or any portion of the Property (with the exception of the contemplated leasing of portions of the Property which shall not require the consent of the City), including but not limited to any fixtures or equipment now or hereafter attached thereto, except in the ordinary course of business, provided such consent in Section 8.01(j)(5) will not be unreasonably withheld by DPD and any such consent shall be given within 60 days of such request;

(k) the Developer has not incurred, and, prior to the issuance of the Phase II Certificate, shall not, without the prior written consent of the Commissioner of DPD, allow the existence of any liens against the Property (or improvements thereon) other than the Permitted Liens; 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; and

(l) 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 DPD'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 Phase II 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 the Developer shall be used by the Developer solely to pay for (or to reimburse the Developer for its payment for) the TIF-Funded Improvements as provided in this Agreement.

8.05 TIF 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; provided, however, that any such amendments shall not have a material adverse effect on the Developer or the Project. The Developer shall, at the Developer's expense, cooperate and provide reasonable assistance in connection with the marketing of any such TIF 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 Occupancy. (a) For the 10-year period commencing with the date of issuance of the Phase II Certificate, the Developer shall maintain an average occupancy equal to the Minimum Occupancy ("Average Minimum Occupancy") in order to continue to receive payments on City Note A. Developer shall deliver, with the Developer's requisition for its annual City Note A payments, an occupancy progress report detailing compliance with the requirement to maintain an Average Minimum Occupancy (the "Occupancy Report") for the period beginning on October 1 of the preceding year to September 30 of the current year. The Developer shall submit the Occupancy Report each year through the tenth anniversary of the issuance of the Phase II Certificate. After such 10-year period, the Developer shall maintain the Project occupied and open for business.

(b) The covenants in this **Section 8.06** shall run with the land and be binding upon any transferee.

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. After commencement of construction, the Developer shall deliver to the City monthly written progress reports detailing compliance with the requirements of **Sections 8.09, 10.02 and 10.03** of this Agreement. If any such reports indicate a shortfall in compliance, the Developer shall also deliver a plan to DPD which shall outline, to DPD's satisfaction, the manner in which the Developer shall correct any shortfall.

8.08 Employment Profile. The Developer shall submit, and contractually obligate and cause the General Contractor or any subcontractor to submit, to DPD, from time to time, statements of its employment profile upon DPD'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 DPD has given its prior written consent with respect thereto, no Affiliate of the Developer may receive any portion of City Funds, directly or indirectly, in payment for work done, services provided or materials supplied in connection with any TIF-Funded Improvement. The Developer shall provide information with respect to any entity to receive City Funds directly or indirectly (whether through payment to the Affiliate by the Developer and reimbursement to the Developer for such costs using City Funds, or otherwise), upon DPD's request, prior to any such disbursement.

8.11 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. Beginning in the calendar year in which construction commences, the Developer shall obtain and provide to DPD Financial Statements for the Developer's most recent fiscal year and each fiscal 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 DPD 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 DPD, within thirty (30) days of DPD's request, official receipts from the appropriate entity, or other proof satisfactory to DPD, 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 DPD's sole option, to furnish a good and sufficient bond or other security satisfactory to DPD in such form and amounts as DPD 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 DPD of any and all events or actions which 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, including but not limited to the Municipal Code of Chicago, whether or not in the performance of this Agreement. 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 or 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 DPD of the Developer's intent to contest or object to a Governmental Charge and, unless, at DPD's sole option,

(iii) the Developer shall demonstrate to DPD'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

(iv) the Developer shall furnish a good and sufficient bond or other security satisfactory to DPD in such form and amounts as DPD 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 DPD thereof in writing, at which time DPD may, but shall not be obligated to, and without waiving or releasing any obligation or liability of the Developer under this Agreement, in DPD's sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect

thereto which DPD deems advisable. All sums so paid by DPD, if any, and any expenses, if any, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be promptly disbursed to DPD 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.

(c) Real Estate Taxes.

(i) Acknowledgment of Real Estate Taxes. The Developer agrees that (A) for the purpose of this Agreement, the total projected minimum assessed value of the Property that is necessary to support the estimated debt service on City Notes A and B ("**Minimum Assessed Value**") is shown on Exhibit K attached hereto and incorporated herein by reference for the years noted on Exhibit K; and (B) the real estate taxes anticipated to be generated and derived from the respective portions of the Property and the Project for the years shown are fairly and accurately indicated in Exhibit K.

(ii) Real Estate Tax Exemption. With respect to the Property or the Project, neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer shall, during the Term of this Agreement, seek, or authorize any exemption (as such term is used and defined in the Illinois Constitution, Article IX, Section 6 (1970)) for any year that the Redevelopment Plan is in effect.

(iii) No Reduction in Real Estate Taxes. Neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer shall, during the Term of this Agreement, directly or indirectly, initiate, seek or apply for proceedings in order to lower the assessed value of all or any portion of the Property or the Project below the amount of the Minimum Assessed Value as shown in Exhibit K for the applicable year. The City, however, acknowledges that the Developer is seeking a 6(b) property tax classification for the Property and that any actions in furtherance of securing such classification shall not be deemed a default under the provisions of this Agreement.

(iv) No Objections. Neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer, shall object to or in any way seek to interfere with, on procedural or any other grounds, the filing of any Underassessment Complaint or subsequent proceedings related thereto with the Cook County Assessor or with the Cook County Board of Appeals, by either the City or any taxpayer. The term "Underassessment Complaint" as used in this Agreement shall mean any complaint seeking to increase the assessed value of the Property up to (but not above) the Minimum Assessed Value as shown in Exhibit K.

(v) Covenants Running with the Land. The parties agree that the restrictions contained in this Section 8.19(c) are covenants running with the land and this Agreement shall be recorded by the Developer as a memorandum thereof, at the Developer's expense, with the Cook County Recorder of Deeds on the Closing Date. These restrictions shall be binding upon the Developer and its agents, representatives, lessees, successors, assigns and transferees from and after the date hereof, provided however, that the covenants shall be released when the Redevelopment Area is no longer in effect. The Developer agrees that any sale, lease, conveyance, or transfer of title to all or any portion of the Property or

Redevelopment Area from and after the date hereof shall be made explicitly subject to such covenants and restrictions. Notwithstanding anything contained in this **Section 8.19(c)** to the contrary, the City, in its sole discretion and by its sole action, without the joinder or concurrence of the Developer, its successors or assigns, may waive and terminate the Developer's covenants and agreements set forth in this **Section 8.19(c)**.

8.20 Public Benefits Program. Prior to the issuance of the Phase I Certificate, the Developer shall provide a public benefits program as described on **Exhibit N**.

8.21 Intentionally Deleted.

8.22 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 the Phase II Certificate) shall be in effect throughout the Term of the Agreement.

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 DPD in triplicate, which shall identify clearly the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that the Employer hired the employee should be written in after the employee's name.

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

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

Good faith efforts on the part of the Developer, the General Contractor and each subcontractor to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Chief Procurement Officer) shall not suffice to replace the actual, verified achievement of the requirements of this 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. 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, as applicable, (i) the Minority-Owned and Women-Owned Business Enterprise Procurement Program, Section 2-92-420 *et seq.*, Municipal Code of Chicago (the "**Procurement Program**"), and (ii) the Minority- and Women-Owned Business Enterprise Construction Program, Section 2-92-650 *et seq.*, Municipal Code of Chicago (the "**Construction Program**," and collectively with the Procurement Program, the "**MBE/WBE Program**"), and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this Section 10.03, during the course of the Project, at least the following percentages of the MBE/WBE Budget (as set forth in **Exhibit H-2** hereto) shall be expended for contract participation by MBEs and by WBEs:

- (1) At least 24 percent by MBEs.
- (2) At least four 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**" or a "**construction contract**" as such terms are defined in Sections 2-92-420 and 2-92-670, Municipal Code of Chicago, as applicable.

(c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code of Chicago, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by the Developer) or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of (i) the MBE or WBE participation in such joint venture or (ii) the amount of any actual work performed on the Project by the MBE or WBE), by the Developer utilizing a MBE or a WBE as the General Contractor (but only to the extent of any actual work performed on the Project by the General Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the Project to one or more MBEs or WBEs, or by the purchase of materials or services 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**. In accordance with Section 2-92-730, Municipal Code of Chicago, the Developer shall not substitute any MBE or WBE General Contractor or subcontractor without the prior written approval of DPD.

(d) The Developer shall deliver quarterly reports to the City's monitoring staff 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 the City's monitoring staff in determining the Developer's compliance with this MBE/WBE commitment. The Developer shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs in connection with the Project for at least five years after completion of the Project, and the City's monitoring staff shall have access to all such records maintained by the Developer, on five 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 Sections 2-92-540 and 2-92-730, Municipal Code of Chicago, as applicable.

(f) Any reduction or waiver of the Developer's MBE/WBE commitment as described in this Section 10.03 shall be undertaken in accordance with Sections 2-92-450 and 2-92-730, Municipal Code of Chicago, as applicable.

(g) Prior to the commencement of the Project, the Developer shall be required to meet with the City's monitoring staff with regard to the Developer's compliance with its obligations under this **Section 10.03**. The General Contractor and all major subcontractors shall be required to attend this pre-construction meeting. During said meeting, the Developer shall demonstrate to the City's monitoring staff its plan to achieve its obligations under this **Section 10.03**, the sufficiency of which shall be approved by the City's monitoring staff. During the Project, the Developer shall submit the documentation required by this **Section 10.03** to the City's monitoring staff, 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; and (vii) evidence that MBE/WBE contractor associations have been informed of the Project via written notice and hearings. Failure to submit such documentation on a timely basis, or a determination by the City's monitoring staff, upon analysis of the documentation, that the Developer is not complying with its obligations under this **Section 10.03**, shall, upon the delivery of written notice to the Developer, be deemed an Event of Default. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (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

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, the Bond Ordinance 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: (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 all or any portion of the Property, 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 must provide and maintain, at Developer's own expense, or cause to be provided and maintained during the term of this Agreement, the insurance coverage and requirements specified below, insuring all operations related to the Agreement.

(a) Prior to execution and delivery of this Agreement.

(i) Workers Compensation and Employers Liability

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

(ii) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations independent contractors, separation of insureds, defense, and contractual liability (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) All Risk Property

All Risk Property Insurance at replacement value of the property to protect against loss of, damage to, or destruction of the building/facility. The City is to be named as an additional insured and loss payee/mortgagee if applicable.

(b) Construction. Prior to the construction of any portion of the Project, Developer will cause its architects, contractors, subcontractors, project managers and other parties constructing the Project to procure and maintain the following kinds and amounts of insurance:

(i) Workers Compensation and Employers Liability

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

(ii) Commercial General Liability (Primary and Umbrella)

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

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the 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 basis.

(iv) Railroad Protective Liability

When any work is to be done adjacent to or on railroad or transit property, Developer must provide cause to be provided with respect to the operations that Contractors perform, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy must have 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) All Risk /Builders Risk

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

(vi) Professional Liability

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

(vii) Valuable Papers

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

(viii) Contractors Pollution Liability

When any remediation work is performed which may cause a pollution exposure, the Developer must cause remediation contractor to provide Contractor Pollution Liability covering bodily injury, property damage and other losses caused by pollution conditions that arise from the contract scope of work with limits of not less than \$1,000,000 per occurrence.

Coverage must include completed operations, contractual liability, defense, excavation, environmental cleanup, remediation and disposal. 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. The City of Chicago is to be named as an additional insured.

(c) Post Construction:

(i) All Risk Property Insurance at replacement value of the property to protect against loss of, damage to, or destruction of the building/facility. The City is to be named as an additional insured and loss payee/mortgagee if applicable.

(d) Other Requirements:

The Developer must furnish the City of Chicago, Department of Planning Services, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance, or such similar evidence, 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 Developer must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached) or equivalent prior to closing. 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 Developer is not a waiver by the City of any requirements for the Developer to obtain and maintain the specified coverages. The Developer shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Developer of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to stop work and/or terminate agreement until proper evidence of insurance is provided.

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

Any deductibles or self insured retentions on referenced insurance coverages must be borne by Developer and Contractors.

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

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

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

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

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

The Developer must require Contractor and subcontractors to provide the insurance required herein, or Developer may provide the coverages for Contractor and subcontractors. All Contractors and subcontractors are subject to the same insurance requirements of Developer unless otherwise specified in this Agreement.

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

The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change 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 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, at the Developer's expense. 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 covenants, conditions, promises, agreements or obligations of the Developer under this Agreement or any related 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;

(c) 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;

(d) 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, including any fixtures now or hereafter attached thereto, other than the Permitted Liens, or the making or any attempt to make any levy, seizure or attachment thereof;

(e) 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;

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

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

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

(i) the dissolution of the Developer or the death of any natural person who owns a material interest in the Developer; or

(j) 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 thirty (30) 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

(k) prior to the issuance of the Phase II Certificate, the sale or transfer of all or a majority of the ownership interests of the Developer in violation of Section 8.01 hereof 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 percent (10%) of the Developer's membership interests.

15.02 Remedies Upon the occurrence of an Event of Default and subject to the limitations set forth herein, the City may terminate this Agreement and all related agreements, may suspend and/or terminate payments due on City Note A. It is expressly agreed by the City that the City's obligation to make payments on City Note B shall be vested as of the date of issuance of City Note B without defense to payment (other than insufficiency of Available Incremental Taxes or Excess Incremental Taxes), including as a result of an Event of Default by the Developer hereunder. The City's obligation to make payments on City Note B shall survive the termination of this Agreement. 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; provided, further, that the only cure provisions with respect to the Developer's failure to comply with the occupancy covenant requiring Developer to maintain an Average Minimum Occupancy under **Section 8.06** hereof are contained in **Section 15.04** below.

15.04 Occupancy Curative Period.

- (a) Notwithstanding any other provision of this Agreement to the contrary, an Event of Default with respect to Developer's obligation to maintain the Average Minimum Occupancy (an "**Occupancy Default**"), shall not be deemed to have occurred, unless the Developer: i) has failed to cure the Occupancy Default within one (1) year of the date the City receives an Occupancy Report specifying such default (the "**Receipt Date**"), such period to be defined as the "**Minimum Cure Period**," or ii) has failed to cure a previous Occupancy Default within the Maximum Cure Period (defined herein); provided, however, if an Occupancy Default described in subpart (i) of this **Section 15.04(a)** is not cured within the Minimum Cure 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 the Minimum Cure Period and thereafter cures such default within two (2) years of the related Receipt Date; provided, further, that the Developer will be allowed a maximum of two Minimum Cure Periods to cure an Occupancy Default or such other longer time period as approved by the Commissioner of DPD in her/his sole discretion (the "**Maximum Cure Period**").
- (b) If the Developer submits an Occupancy Report which describes an Occupancy Default, but has maintained the Minimum Occupancy in the thirty (30) days preceding the Receipt Date and has provided the City with evidence that it has contracted for the Minimum Occupancy for the following year, then the Developer will not be deemed to have incurred an Occupancy Default in relation to such Occupancy Report or used a Minimum Cure Period.
- (c) If the Developer has cured all Occupancy Defaults, the Developer shall continue to deliver Occupancy Reports and maintain the Average Minimum Occupancy after the 10th anniversary of the issuance of the Phase II Certificate for the number of years for which the Developer did not report maintaining the Average Minimum Occupancy.

15.05 Occupancy Remedies.

- (a) Upon the occurrence of an Occupancy Default which constitutes an Event of Default as described in **Section 15.04(a)**, the City may terminate this Agreement and all related agreements, and may suspend payments of City Note A or terminate City Note A. 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 performances of the agreements contained herein, provided, however, the City shall have no recourse against City Note B.
- (b) Upon the occurrence of an Event of Default pursuant to an Occupancy Default under **Section 15.04**, the City may suspend payments due under City Note A, until the Developer has complied with the occupancy covenants in **Section 8.06**, and no interest shall accrue on City Note A during the year described in the Occupancy Report with an Occupancy Default or during the Minimum Cure Period, unless Developer complies with **Section 15.04** within the Minimum Cure Period.

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 G** 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" ; 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 DPD.

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 Planning and Development 121 North LaSalle Street, Room 1000 Chicago, IL 60602 Attention: Commissioner
With Copies To:	City of Chicago Department of Law Finance and Economic Development Division 121 North LaSalle Street, Room 600 Chicago, IL 60602
If to the Developer:	MLRP 401 Cicero, LLC One Pierce Place, Suite 450 Itasca, IL 60143 Attention Peter Harmon
With Copies To:	DLA Piper US, LLP 206 North LaSalle Street, Suite 1900 Chicago, Illinois 60601 Attention: Andrew Scott and David Reifman

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; provided, however, that the City, in its sole discretion, may amend, modify or supplement Exhibit D hereto without the consent of any party 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 or construction obligations of Developer (including those set forth in Sections 10.02 and 10.03) by more than five percent (5%) (except as provided in Section 3.04(c) hereof) 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 ninety (90) days (except as provided in Section 3.04(d) hereof).

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. Except as otherwise provided, 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 satisfactory to the City.

18.14 Approval. Wherever this Agreement provides for the approval or consent of the City, DPD or the Commissioner, or any matter is to be to the City's, DPD's or the Commissioner's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City, DPD or the Commissioner in writing and in the reasonable discretion thereof. The Commissioner or other person designated by the Mayor of the City shall act for the City or DPD in making all approvals, consents and determinations of satisfaction, granting the Certificates or otherwise administering this Agreement for the City. In furtherance of the foregoing, the terms of this Agreement may be modified administratively by the Commissioner without the same being deemed an amendment to this Agreement provided that the Commissioner, in consultation with the Corporation Counsel of the City, has determined that such modification is minor, appropriate and consistent with the terms and conditions of this Agreement and the purposes underlying the provisions hereof.

18.15 Assignment. Prior to five years after the issuance of the Phase II Certificate, 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 (Real Estate Provisions) and 8.22 (Survival of Covenants) 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-judgement 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

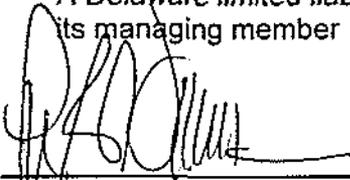
contemplated by this Agreement shall be grounds for termination of this Agreement and the transactions contemplated hereby. The Developer hereby represents and warrants that, to the best of its knowledge after due inquiry, no violation of Section 2-156-030 (b) has occurred with respect to this Agreement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

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

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.

MLRP 401 CICERO, LLC,
A Delaware limited liability company

By: ML Realty Partners, LLC
A Delaware limited liability company,
its managing member

By:  _____

Its: MLP _____

CITY OF CHICAGO

By: _____

Commissioner, Department
of Planning and Development

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.

MLRP 401 CICERO, LLC,
A Delaware limited liability company

By: MLRP Realty Partners, LLC
A Delaware limited liability company,
its managing member

By: _____

Its: _____

CITY OF CHICAGO

By: 
Arnold L. Randall
Commissioner, Department of Planning and Development

Exhibit A

**REDEVELOPMENT AREA
LEGAL DESCRIPTION**

**Street Boundary Description of the Area
(to be recorded)**

The Northwest Industrial Corridor Area is an area generally bounded by West Fullerton Avenue on the north, West Lake Street on the south, North Cicero Avenue on the west and an irregular line of North Kilbourn Avenue, North Kostner Avenue and North Pulaski Road on the east.

Exhibit B

**PROPERTY
LEGAL DESCRIPTION
(Subject to Survey and Title Insurance)
(to be recorded)**

"CANDY BUILDING" TRACT:

THAT PART OF VARIOUS LOTS AND BLOCKS AND VACATED STREETS AND ALLEYS IN VARIOUS SUBDIVISIONS IN THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF VACATED WEST KINZIE STREET WITH THE EAST LINE OF VACATED KILPATRICK AVENUE; THENCE NORTH 00° 02' 54" WEST ALONG SAID EAST LINE OF VACATED KILPATRICK AVENUE 585.25 FEET; THENCE SOUTH 89° 23' 27" EAST 151.89 FEET; THENCE NORTH 00° 36' 33" EAST 15.10 FEET; THENCE SOUTH 89° 23' 27" EAST 60.87 FEET; THENCE SOUTH 00° 36' 33" WEST 15.14 FEET; THENCE SOUTH 89° 23' 31" EAST 232.45 FEET; THENCE NORTH 00° 36' 29" EAST 9.58 FEET; THENCE SOUTH 89° 23' 31" EAST 175.49 FEET; THENCE SOUTH 00° 00' 04" EAST 556.83 FEET; THENCE NORTH 89° 26' 27" WEST 25.0 FEET; THENCE SOUTH 00° 01' 23" WEST 37.42 FEET; THENCE NORTH 89° 26' 27" WEST 10.33 FEET; THENCE SOUTH 00° 33' 33" WEST 25.0 FEET; THENCE NORTH 89° 26' 27" WEST 349.24 FEET; THENCE NORTH 00° 33' 33" EAST 25.0 FEET TO THE SOUTH LINE OF VACATED WEST KINZIE STREET AFORESAID; THENCE NORTH 89° 26' 27" WEST ALONG SAID SOUTH LINE 235.72 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

"CANDYLAND" TRACT A:

THAT PART OF VARIOUS LOTS AND BLOCKS AND VACATED STREETS AND ALLEYS IN VARIOUS SUBDIVISIONS IN THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF VACATED WEST KINZIE STREET WITH THE EAST LINE OF VACATED KILPATRICK AVENUE; THENCE NORTH 00° 02' 54" WEST ALONG SAID EAST LINE OF VACATED KILPATRICK AVENUE 585.25 FEET; THENCE SOUTH 89° 23' 27" EAST 151.89 FEET; THENCE NORTH 00° 36' 33" EAST 15.10 FEET; THENCE SOUTH 89° 23' 27" EAST 60.87 FEET; THENCE SOUTH 00° 36' 33" WEST 15.14 FEET; THENCE SOUTH 89° 23' 31" EAST 232.45 FEET; THENCE NORTH 00° 36' 29" EAST 9.58 FEET; THENCE SOUTH 89° 23' 31" EAST 175.49 FEET; THENCE NORTH 00° 00' 04" WEST 182.61 FEET TO THE EASTERLY EXTENSION OF THE SOUTH LINE OF THE 16 FOOT VACATED ALLEY; THENCE NORTH 89° 32' 19" WEST ALONG SAID SOUTH LINE 41.91 FEET TO THE SOUTHERLY EXTENSION OF THE EAST LINE OF LOT 2 IN BLOCK 4 IN THE SUBDIVISION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 10; THENCE NORTH 00° 02' 54" WEST ALONG SAID EXTENSION AND SAID EAST LINE 140.49 FEET TO THE SOUTH LINE OF WEST RACE AVENUE; THENCE NORTH 89° 36' 26" WEST ALONG SAID SOUTH LINE 579.02 FEET TO THE EAST LINE OF NORTH KILPATRICK AVENUE; THENCE SOUTH 00° 02' 54" EAST ALONG SAID EAST LINE 139.80 FEET TO THE NORTH TERMINUS OF VACATED NORTH KILPATRICK AVENUE; THENCE NORTH 89° 32' 19" WEST ALONG SAID TERMINUS AND ALONG THE SOUTH LINE OF A 16 FOOT PUBLIC ALLEY A DISTANCE OF 669.68 FEET TO THE EAST LINE OF NORTH CICERO AVENUE; THENCE SOUTH 00° 03' 50" EAST ALONG SAID EAST LINE 774.67 FEET TO THE

SOUTH LINE OF VACATED WEST KINZIE STREET; THENCE SOUTH 89° 26' 27" EAST 669.48 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

ALSO

"CANDYLAND" TRACT B: (BEING THE FOLLOWING DESCRIBED 10 PORTIONS OF LAND, TAKEN AS A TRACT):

LOTS 3 TO 25, BOTH INCLUSIVE, IN BLOCK 1 IN THE SUBDIVISION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ALSO

THAT PART OF LOTS 1 AND 2 IN BLOCK 1 IN THE SUBDIVISION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 2, AND RUNNING THENCE EAST ALONG THE NORTH LINE OF SAID BLOCK 1, A DISTANCE OF 28.06 FEET TO A POINT 9 FEET WEST OF THE CENTER LINE OF RAILROAD TRACK AND 0.33 OF A FOOT EAST OF THE NORTHEAST CORNER OF A BRICK BUILDING; THENCE SOUTHWARD ALONG A STRAIGHT LINE, 0.33 OF A FOOT, MORE OR LESS, EAST OF AND PARALLEL TO THE EAST FACE OF SAID BRICK BUILDING, A DISTANCE OF 20.36 FEET TO A POINT 27.91 FEET EAST OF THE WEST LINE OF SAID LOT 2; THENCE SOUTHWARDLY ALONG THE ARC OF A CIRCLE HAVING A RADIUS OF 330 FEET; CONVEX EASTERLY TANGENT TO THE LAST ABOVE MENTIONED STRAIGHT LINE, AND 0.33 OF A FOOT, MORE OR LESS, EAST OF AND PARALLEL TO THE EASTERLY FACE OF SAID BRICK BUILDING, A DISTANCE OF 52.27 FEET TO A POINT 23.36 FEET EAST OF SAID WEST LINE OF LOT 2; THENCE SOUTHWARDLY ALONG THE ARC OF A CIRCLE HAVING A RADIUS OF 175 FEET CONVEX EASTERLY TANGENT TO THE ABOVE MENTIONED ARC AND 0.33 OF A FOOT, MORE OR LESS, EAST OF AND PARALLEL TO SAID EASTERLY FACE OF A BRICK BUILDING, A DISTANCE OF 54.43 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 2, WHICH IS 6.19 FEET EAST OF THE SOUTHWEST CORNER THEREOF; THENCE WEST ON THE SOUTH LINE OF SAID LOT 2, A DISTANCE OF 6.19 FEET TO SAID SOUTHWEST LOT CORNER AND THENCE NORTH ON SAID WEST LINE OF LOT 2, A DISTANCE OF 123.91 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

ALSO

THAT PART OF THE VACATED STREET KNOWN AS WEST OHIO (ONTARIO) STREET LYING NORTH OF BLOCK 1 IN THE SUBDIVISION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 10, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 2, AND RUNNING THENCE NORTH ALONG A NORTHWARD EXTENSION OF THE WEST LINE OF SAID LOT 2, A DISTANCE OF 33 FEET; THENCE EAST, PARALLEL TO THE NORTH LINE OF SAID BLOCK 1, A DISTANCE OF 27.72 FEET TO A POINT 9 FEET WEST OF THE CENTER LINE OF RAILROAD TRACK; THENCE SOUTHWARD 9 FEET WEST OF AND PARALLEL TO SAID CENTER LINE OF TRACK, A DISTANCE OF 33 FEET TO SAID NORTH LINE OF BLOCK 1; THENCE WEST ALONG SAID NORTH BLOCK LINE, A DISTANCE OF 28.06 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

ALSO

THAT PART OF LOTS 1 AND 2 IN BLOCK 1 IN THE SUBDIVISION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE NORTH LINE OF SAID LOTS 1 AND 2 WHICH IS 28.06 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 2, 9 FEET WEST OF THE CENTER LINE OF RAILROAD TRACK AND 0.33 OF A FOOT EAST OF THE NORTHWEST CORNER OF A BRICK BUILDING AND RUNNING THENCE SOUTHWARD ALONG A STRAIGHT LINE 0.33 OF A FOOT, MORE OR LESS, EAST OF AND PARALLEL TO THE EAST FACE OF SAID BRICK BUILDING, A DISTANCE OF 20.36 FEET TO A POINT 27.91 FEET EAST OF THE WEST LINE OF SAID LOT 2; THENCE SOUTHWARDLY ALONG THE ARC OF A CIRCLE HAVING A RADIUS OF 330 FEET CONVEX EASTERLY TANGENT TO THE LAST ABOVE MENTIONED STRAIGHT LINE AND 0.33 OF A FOOT, MORE OR LESS, EAST OF AND PARALLEL TO THE EASTERLY FACE OF SAID BRICK BUILDING, A DISTANCE OF 52.27 FEET TO A POINT 23.36 FEET EAST OF SAID WEST LINE OF LOT 2; THENCE SOUTHWARDLY ALONG THE ARC OF A CIRCLE HAVING A RADIUS OF 175 FEET CONVEX EASTERLY TANGENT TO THE ABOVE MENTIONED ARC AND 0.33 OF A FOOT, MORE OR LESS, EAST OF AND PARALLEL TO SAID EASTERLY FACE OF A BRICK BUILDING, A DISTANCE OF 54.43 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 2, WHICH IS 6.19 FEET EAST OF THE SOUTHWEST CORNER THEREOF; THENCE EAST ALONG THE SOUTH LINE OF SAID LOTS 1 AND 2, A DISTANCE OF 23.16 FEET TO A POINT 9 FEET WEST OF SAID CENTER LINE OF RAILROAD TRACK AND THENCE NORTH 9 FEET WEST OF AND PARALLEL TO SAID CENTER LINE OF TRACK, A DISTANCE OF 123.92 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

ALSO

LOTS 28 TO 48, BOTH INCLUSIVE, IN BLOCK 1 IN THE SUBDIVISION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ALSO

THAT PART OF LOTS 49 AND 50, IN BLOCK 1 IN THE SUBDIVISION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 49 AND RUNNING THENCE EAST ALONG THE NORTH LINE OF SAID LOTS 49 AND 50, A DISTANCE OF 29.52 FEET TO A POINT 9 FEET WEST OF THE CENTER LINE OF RAILROAD TRACK; THENCE SOUTH 9 FEET WEST OF AND PARALLEL TO SAID CENTER LINE OF TRACK, A DISTANCE OF 20.22 FEET TO A POINT 29.73 FEET EAST OF THE WEST LINE OF SAID LOT 49 AND 5 FEET WESTERLY OF THE CENTER LINE OF ANOTHER RAILROAD TRACK; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE, A DISTANCE OF 104.49 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 49, WHICH IS 5 FEET WESTERLY OF THE CENTER LINE OF THE LAST MENTIONED RAILROAD TRACK AND 15.95 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT 49; THENCE WEST ALONG SAID LOT LINE, A DISTANCE OF 15.95 FEET TO SAID SOUTHWEST LOT CORNER; THENCE NORTH ALONG THE WEST LINE OF SAID LOT 49, A DISTANCE OF 123.91 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

ALSO

THAT PART OF LOTS 49 AND 50 IN BLOCK 1 IN THE SUBDIVISION OF THE SOUTHWEST

QUARTER OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT WHICH IS 20.22 FEET SOUTH OF THE NORTH LINE OF SAID LOT 50 AND 29.73 FEET EAST OF THE WEST LINE OF SAID LOT 49, WHICH IS ALSO 5 FEET WESTERLY OF THE CENTER OF RAILROAD TRACK AND 9 FEET WEST OF THE CENTER LINE OF ANOTHER TRACK AND RUNNING THENCE SOUTH 9 FEET WEST OF AND PARALLEL TO THE CENTER LINE OF THE LAST MENTIONED TRACT, A DISTANCE OF 103.70 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 50, WHICH IS 30.81 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT 49; THENCE WEST ALONG THE SOUTH LINE OF SAID LOTS, A DISTANCE OF 14.86 FEET TO A POINT 5 FEET WESTERLY OF THE CENTER LINE OF THE FIRST ABOVE MENTIONED RAILROAD TRACK AND THENCE NORTHEASTWARDLY ALONG A STRAIGHT LINE, A DISTANCE OF 104.49 FEET TO THE POINT OF BEGINNING IN COOK COUNTY, ILLINOIS.

ALSO

ALL THAT PART OF THE EAST AND WEST 16 FOOT PUBLIC ALLEY LYING SOUTH OF AND ADJOINING THE SOUTH LINE OF LOTS 3 TO 23, BOTH INCLUSIVE, LYING NORTH OF AND ADJOINING THE NORTH LINE OF LOTS 28 TO 48, BOTH INCLUSIVE, LYING WEST OF AND ADJOINING A LINE DRAWN FROM THE SOUTHEAST CORNER OF SAID LOT 3 TO THE NORTHEAST CORNER OF SAID LOT 48 AND LYING EAST OF AND ADJOINING A LINE DRAWN FROM THE SOUTHWEST CORNER OF SAID LOT 23 TO THE NORTHWEST CORNER OF SAID LOT 28 IN BLOCK 1 IN SUBDIVISION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, VACATED BY A ORDINANCE OF THE CITY OF CHICAGO A COPY OF WHICH WAS RECORDED MARCH 23, 1961 AS DOCUMENT NUMBER 18116791, IN COOK COUNTY, ILLINOIS.

ALSO

A PARCEL OF LAND IN THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: THAT PART OF VACATED ALLEY RUNNING EAST AND WEST THROUGH BLOCK 1 IN SUBDIVISION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF LOT 2 IN SAID BLOCK 1 AND RUNNING THENCE SOUTH A DISTANCE OF 16 FEET TO THE NORTHWEST CORNER OF LOT 49 IN BLOCK 1; THENCE EAST ALONG THE NORTH LINE OF LOTS 49 AND 50 IN SAID BLOCK 1, A DISTANCE OF 29.52 FEET TO A POINT 9 FEET WEST OF THE CENTER LINE OF RAILROAD TRACK; THENCE NORTH 9 FEET WEST OF AND PARALLEL TO THE CENTER LINE OF SAID TRACK A DISTANCE OF 16 FEET TO THE SOUTH LINE OF LOTS 1 AND 2 IN SAID BLOCK 1; THENCE WEST ALONG SAID SOUTH LINE A DISTANCE OF 29.35 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

ALSO

LOTS 26 AND 27 IN BLOCK 1 IN THE SUBDIVISION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PINS:

16-10-109-015-0000
16-10-109-017-0000
16-10-109-018-0000
16-10-109-020-0000
16-10-110-039-0000
16-10-110-044-0000
16-10-110-045-0000
16-10-111-036-0000
16-10-112-048-0000
16-10-113-006-0000
16-10-113-013-0000
16-10-113-015-0000
16-10-113-016-0000
16-10-114-038-0000
16-10-501-004-0000

Exhibit C

**TIF-FUNDED IMPROVEMENTS
(to be recorded)**

Line Item	Cost
Land Acquisition	\$7,000,000
Excavation	\$839,910
Demolition	\$7,292,049
Asbestos Removal	\$1,750,000
Contaminated Soils and Tank Removal	\$150,000
Environmental Matters/NFR	\$200,000
TOTAL	\$17, 231,959*

*Notwithstanding the total of TIF-Funded Improvements or the amount of TIF-eligible costs, the assistance to be provided by the City is limited to the amount described in **Section 4.03** and shall not exceed the lesser of \$10,600,000 or 25.2% of the Project Budget.

Exhibit D

REDEVELOPMENT PLAN

(Not Attached for Recording Purposes)

Exhibit E

CONSTRUCTION CONTRACT
(to be delivered prior to commencement of construction)
(Not Attached for Recording Purposes)

Exhibit F

ESCROW AGREEMENT

(to be delivered, if applicable, prior to commencement of construction)
(Not Attached for Recording Purposes)

EXHIBIT G

PERMITTED LIENS (to be recorded)

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: None

EXHIBIT H-1

**PROJECT BUDGET
(to be recorded)**

Hard Costs

Acquisition	\$7,000,000
Site Clearance and Preparation	7,859,770
Green Initiatives	797,000
Shell Construction	22,690,308
Total Hard Costs	<u>\$38,347,078</u>

Soft Costs

Legal Fees	\$300,000
NFR/Environmental Consultant	200,000
Loan Fees, Real Estate Taxes and Title Fees	381,401
Developer Fees	677,088
Tenant Improvements	1,301,938
Marketing/Leasing Fees	719,104
Project Contingency	750,000
Total Soft Costs	<u>4,329,531</u>
Total Uses	\$42,676,609

EXHIBIT H-2

**M/WBE BUDGET
(to be recorded)**

<u>M/WBE Budget Category</u>	<u>Amount</u>
Site Demolition and Asbestos Abatement	\$7,859,770
Green Initiatives (LEED)	797,000
Shell Construction	19,370,072
Shell Contingency (GC)	750,000
Contractor Fee	568,333
Tenant Improvements	1,301,938
Demising Partitions	419,521
Project Contingency (Developer)	750,000
 M/WBE Total:	 \$31,816,634

TOTAL	\$31, 816,634
MBE (24%)	\$ 7,635,992
WBE (4%)	\$ 1,272,665

Notes:

1. Any work performed on site by City of Chicago Departments (or their vendors) or utility agencies (Peoples Gas, MWRD, ComEd, Comcast, AT&T, etc) shall be deducted from the foregoing amount of required M/WBE Total.
2. Contingency line items above are only included in the M/WBE Budget to the extent that funds in such contingency line items are used.
3. Where Developer secures M/WBE participation for line items other than those shown above, the Developer shall receive credit for such participation.

EXHIBIT I

APPROVED PRIOR EXPENDITURES

(Not Attached for Recording Purposes)

EXHIBIT J

OPINION OF DEVELOPER'S COUNSEL

(Not Attached for Recording Purposes)

EXHIBIT K

PRELIMINARY TIF PROJECTION
REAL ESTATE TAXES
(to be recorded)

Year	Projected Equalized Assessed Value (EAV)
2008	
2009	\$ 0
2010	\$ 11,749,034
2011	\$ 11,749,034
2012	\$ 12,652,425
2013	\$ 12,652,425
2014	\$ 12,652,425
2015	\$ 13,625,277
2016	\$ 13,625,277
2017	\$ 13,625,277
2018	\$ 14,672,933
2019	\$ 21,092,342
2020	\$ 27,511,750
2021	\$ 35,552,575
2022	\$ 35,552,575

EXHIBIT L

REQUISITION FORM
(Not Attached for Recording Purposes)

EXHIBIT M-1

FORM OF NOTE
(to be recorded)

REGISTERED
NO. R-1

MAXIMUM AMOUNT
\$3,900,000

UNITED STATES OF AMERICA
STATE OF ILLINOIS
COUNTY OF COOK
CITY OF CHICAGO
TAX INCREMENT ALLOCATION REVENUE NOTE
(NORTHWEST INDUSTRIAL CORRIDOR REDEVELOPMENT PROJECT AREA),
TAXABLE SERIES 20__A

Registered Owner: MLRP 401 Cicero, LLC

Interest Rate: an annual rate equal to the median value of the 10-year Treasury rate published in the daily Federal Reserve Release for 15 business days prior to the date of issuance of City Note A plus 250 basis points, but in no event exceeding 8 percent

Maturity Date: December 2, 2021

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 \$3,900,000 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, if insufficient then from Excess Incremental Taxes (as defined in the hereinafter defined Redevelopment Agreement), is due April 1 of each year until the earlier of

Maturity or until this Note is paid in full. Payments shall first be applied to interest. 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 \$3,900,000 for the purpose of paying the costs of certain eligible redevelopment project costs incurred by MLRP 401 Cicero, LLC in connection with the development of an approximately 520,775 square foot distribution/light industrial facility (the "Project") in the Northwest Industrial Corridor 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 July 9, 2008 (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 TO THE EXTENT THAT AVAILABLE INCREMENTAL TAXES ARE INSUFFICIENT TO PAY DEBT SERVICE ON THIS NOTE, THE BALANCE OF THE PAYMENT SHALL BE MADE FROM EXCESS 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 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 may not be prepaid during any Lock-Out Period (as said term is defined in the Redevelopment Agreement). After the end of the Lock-Out Period, 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 December 23, 2008 between the City and the Registered Owner (the "Redevelopment Agreement"), the Registered Owner has agreed to construct 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 \$3,900,000 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 or 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 (Northwest Industrial Corridor Redevelopment Project), Taxable Series 20__A] of the City of Chicago, Cook County, Illinois.

City 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 PLANNING AND DEVELOPMENT

BY:

ITS:

CERTIFICATION OF EXPENDITURE

(Closing Date)

To: Registered Owner

Re: City of Chicago, Cook County, Illinois (the "City")
\$3,900,000 Tax Increment Allocation Revenue Note
(Northwest Industrial Corridor Redevelopment Project, Taxable Series 20__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 _____, ____ (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 (Closing Date).

CITY OF CHICAGO

By: _____
Commissioner
Department of Planning and
Development

AUTHENTICATED BY:

REGISTRAR

EXHIBIT M-2

FORM OF NOTE
(to be recorded)

REGISTERED
NO. R-1

MAXIMUM AMOUNT
\$6,700,000

**UNITED STATES OF AMERICA
STATE OF ILLINOIS
COUNTY OF COOK
CITY OF CHICAGO
TAX INCREMENT ALLOCATION REVENUE NOTE
(NORTHWEST INDUSTRIAL CORRIDOR REDEVELOPMENT PROJECT AREA),
TAXABLE SERIES 20__B**

Registered Owner: MLRP 401 Cicero, LLC

Interest Rate: an annual rate equal to the median value of the 10-year Treasury rate published in the daily Federal Reserve Release for 15 business days prior to the date of issuance of City Note B plus 250 basis points, but in no event exceeding 8 percent

Maturity Date: December 2, 2021

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 \$6,700,000 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, if insufficient then from Excess Incremental Taxes (as defined in the hereinafter defined Redevelopment Agreement), is due April 1 of each year until the earlier of

Maturity or until this Note is paid in full. Payments shall first be applied to interest. 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 \$6,700,000 for the purpose of paying the costs of certain eligible redevelopment project costs incurred by MLRP 401 Cicero, LLC in connection with the development of an approximately 520,775 square foot distribution/light industrial facility (the "Project") in the Northwest Industrial Corridor 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 July 9, 2008 (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 TO THE EXTENT THAT AVAILABLE INCREMENTAL TAXES ARE INSUFFICIENT TO PAY DEBT SERVICE ON THIS NOTE, THE BALANCE OF THE PAYMENT SHALL BE MADE FROM EXCESS 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 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 may not be prepaid during any Lock-Out Period (as said term is defined in the Redevelopment Agreement). After the end of the Lock-Out Period, 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 December 23, 2008 between the City and the Registered Owner (the "Redevelopment Agreement"), the Registered Owner has agreed to construct 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 \$6,700,000 shall be deemed to be a disbursement of the proceeds 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
Chief Financial Officer
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 (Northwest Industrial Corridor Redevelopment Project), Taxable Series 20__B of the City of Chicago, Cook County, Illinois.

Chief Financial Officer
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 PLANNING AND DEVELOPMENT

BY:

ITS:

CERTIFICATION OF EXPENDITURE

(Closing Date)

To: Registered Owner

Re: City of Chicago, Cook County, Illinois (the "City")
\$6,700,000 Tax Increment Allocation Revenue Note
(Northwest Industrial Corridor Redevelopment Project, Taxable Series B)
(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 _____, ____ (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 (Closing Date).

CITY OF CHICAGO

By: _____
Commissioner
Department of Planning and
Development

AUTHENTICATED BY:

REGISTRAR

EXHIBIT N

Public Benefit (to be recorded)

The Developer shall provide a minimum of \$150,000 for public benefit improvements to Garfield Park that may include, but not be limited to, repaving of parking areas, tracks, improvements to park infrastructure and building rehabilitation. If the Developer expends funds to salvage water towers or any other historical element on the property, then such amount shall be deducted from the amount the Developer is obligated to pay for public benefit improvements.

EXHIBIT O

FORM OF SUBORDINATION AGREEMENT

(Not Attached for Recording Purposes)

Exhibit P

FORM OF PAYMENT BOND

(Not Attached for Recording Purposes)