

Contract Summary Sheet

Contract (PO) Number: 4854

Specification Number: 21935

Name of Contractor: UPTOWN GOLDBLATT'S VENTURE LLC

City Department: PLANNING & DEVELOPMENT

Title of Contract: Redevelopment of former Goldblatt store located at 4720-4740 N. Broadway

Dollar Amount of Contract (or maximum compensation if a Term Agreement) (DUR):

\$7,052,894.00

PO Start Date: 11/20/02

PO End Date: 12/31/25

Brief Description of Work: Redevelopment of former Goldblatt store located at 4720-4740 N
Broadway

Procurement Services Contact Person: BARBARA SUTTON

Vendor Number: 50070145

Submission Date:

MAR 10 2004

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This agreement was prepared by and after recording return to: Steven J. Woller, Esq. City of Chicago Law Department 121 North LaSalle Street, Room 600 Chicago, IL 60602

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UPTOWN GOLDBLATTS VENTURE LLC REDEVELOPMENT AGREEMENT

This Uptown Goldblatts Venture LLC Redevelopment Agreement (this "Agreement") is made as of this 10TH day of NOVEMBER, 2002, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("DPD"), and Uptown Goldblatts Venture LLC, an Illinois 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.

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BOX 333-CTI

C. City Council Authority: To induce redevelopment pursuant to the Act, the City Council of the City (the "the City Council") adopted the following ordinances on June 27, 2001: (1) "An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the Lawrence/Broadway Tax Increment Financing Redevelopment Project Area"; (2) "An Ordinance of the City of Chicago, Illinois Designating the Lawrence/Broadway Tax Increment Financing 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 Lawrence/Broadway Tax Increment Financing 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 will purchase or has purchased certain property located within the Redevelopment Area at 4720-4740 North Broadway, Chicago, Illinois 60640, commonly known as the Goldblatts Building complex, and legally described on Exhibit B hereto (the "Property"). The complex presently consists of three buildings on an approximately 31,382 square foot site. The northernmost building is a two-story, triangular building known as the Sheridan Bank Building (as renovated in accordance herewith, the "A Building") . The middle building is a five-story building known as the Loren Miller Building that once served as a Goldblatts store (as renovated in accordance herewith, the "B Building"). The southernmost building is a four-story building known as the Plymouth Hotel (as demolished and reconstructed in accordance herewith, the "C Building"). Each of the three buildings is listed as a "contributing structure" to the Uptown Square Historic District on the National Register of Historic Places. The A, B and C Buildings are sometimes hereafter referred to collectively as the "Buildings."

For purposes of describing the project required under this Agreement (and not for any zoning purposes), the Developer's project consists of the following:

- (i) A Building. The interior of the A Building will be demolished and reconstructed. All building mechanical and life safety systems will be replaced. A new roof and floor structure will be installed. The period architectural character of the A Building facade will be rehabilitated in accordance with Exhibit C. After rehabilitation and prior to tenth anniversary of the Border's Opening Date (as hereinafter defined), the A Building will be primarily leased to Border's, Inc. or another Approved Tenant and the remainder of the A Building will also be leased for Retail or Approved Purposes.

- (ii) B Building. The interior of the B Building will be demolished and reconstructed. All building mechanical and life safety systems will be replaced. The period architectural character of the B Building facade will be rehabilitated in accordance with Exhibit C. After rehabilitation and prior to the tenth anniversary of the Border's Opening Date, the first two floors of the B Building will be leased to Approved Tenants for Retail or Approved Purposes. The first floor will also include a lobby for gaining access to the residential portion of the B Building. The third, fourth and fifth floors of the B Building (along with the second floor of the new C Building, as described below) will be developed with developed with 37 residential condominium units consisting of one bedroom and two bedroom units, of which at least eight (8) shall be Affordable Condominium Units and all of which shall be constructed to a base standard in terms of fixtures and finishes, subject to individual purchaser upgrades. As part of such renovation, windows and balconies will be installed on the third, fourth and fifth floors of the south facade of the B Building. The number of units maybe less than 37 if purchasers elect to combine more than one unit, which may result in units with more than two bedrooms. The north facade will not have any such windows or balconies but may include signage approved by DPD in accordance with this Agreement. The basement of the B Building, which is and will continue to be connected to the basement of the C Building, will also be redeveloped to create 37 parking spaces which will be offered for sale to the purchasers of the condominium units and, to the extent not sold to such purchasers, sold or leased to other private purchasers or users.
- (iii) C Building. The existing C Building will be demolished to grade, but the existing foundation, columns, basement and first floor slab preserved, to the extent practicable. A new two-story building will be built on such foundation and slab. After construction and prior to the tenth anniversary of the Border's Opening Date, the first floor of the C Building will be leased to Approved Tenants for Retail or Approved Purposes. The second floor will be developed with condominium units and the basement developed for parking purposes, both as described above.
- (iv) Other General Improvements. The Developer will clean, repair or replace all existing sidewalks and provide landscaping in accordance with the Municipal Code and site plans approved by DPD. The City, at such times as the City determines, and subject to the availability of

funds shall, at the City's expense, fill designated sidewalk vault spaces adjacent to the Property in a manner consistent with the Project, provided that in no event shall the City be required to spend more than \$300,000 for such work. All entrances to first floor retail space will be located on Broadway and Leland Avenue. The entrance to the residential lobby will be located on Racine Avenue. A total of approximately 27,200 square feet of first floor retail space will be constructed, with an additional approximately 13,400 square feet being constructed on the second floor of the A Building and B Building. Loading and parking access will be located on Racine Avenue separate from the residential entrance and will be permitted ancillary uses.

The Project described above shall be commenced and completed within the time frames set forth in Section 3.01. The Buildings and related improvements (including but not limited to those TIF-Funded Improvements as defined below and set forth on Exhibit D) and other obligations described above are collectively referred to herein as the "Project." The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

E. Redevelopment Plan: The Project will be carried out in accordance with this Agreement and the City of Chicago Lawrence/Broadway Tax Increment Financing Redevelopment Area Program Project and Plan (the "Redevelopment Plan") attached hereto as Exhibit E.

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 (ii) certain Incremental Taxes (as defined below and identified herein), 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") the proceeds of which (the "TIF Bond Proceeds") may be used to pay for the costs of the TIF-Funded Improvements not previously paid for from Incremental Taxes, and which may result in the prepayment of the City Notes (subject to any Lock-Out Period in effect with respect to the Redevelopment Area Note), or in order to reimburse the City for the costs of TIF-Funded Improvements.

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:

"A Building" shall have the meaning set forth in Recital D.

"Act" shall have the meaning set forth in Recital B.

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

"Affordable Condominium Close-Out Date" shall mean the earlier to occur of (i) the date on which the Developer and a purchaser execute the final sales contract for the last of the eight Affordable Condominium Units (and on which none of the previously executed sales contracts have terminated), which contracts include the purchaser's deposit of an earnest money deposit of not less than five percent (5%) of the purchase price, and (ii) the date on which the City issues its final certificate of occupancy for the last of the eight Affordable Condominium Units.

"Affordable Condominium Unit Subsidy Amount" shall mean an amount equal to the sum of (a) \$352,894 (such amount being the sum of \$279,000, representing the deemed subsidy amount attributable to selling the Affordable Condominium Units for an Affordable Price instead of a market rate price, plus \$73,894, representing the amount of costs described in Section 5/11-74.4-3(q) (1) of the Act incurred by the Developer on behalf of the City in connection with the establishment of the Area prior to the Closing Date), plus (b) on and after the Affordable Condominium Close-Out Date and until the issuance of the Project Note, an amount equal to the interest that would accrue on \$279,000 (or, in the event that the City has made any payments of Project Available Incremental Taxes to the Developer, such lesser amount as may be applicable) at the Project Note Interest Rate.

"Affordable Condominium Units" shall mean the eight condominium units included in the Project, four of which shall be

one bedroom units and four of which shall be two bedroom units, each of which shall be sold to a Qualified Household for the applicable Affordable Price. Unless DPD otherwise consents, Building B will have five units (Unit 302, one bedroom; Unit 402, one bedroom; unit 408, two bedrooms; unit 502, one bedroom; and unit 508, two bedrooms) and Building C will have three units (unit 205, one bedroom; unit 212, two bedrooms; and unit 213, two bedrooms).

"Affordable Price" shall mean, for each Affordable Condominium Unit, a purchase price (exclusive of upgrades) equal to \$140,000.

"Approved Tenant" shall mean (a) during the first five years after Border's Opening Date, with respect to the space demised under the Border's Lease, Border's Inc. and any permitted assignee or sublessee under the Border's Lease that does not engage in a Prohibited Use, and (b) after the first five years with respect to the space demised under the Border's Lease, and at all times with respect to any other space in the Buildings, any tenant that engages in Retail or Approved Purposes.

"Assumed Gross Sales Proceeds Amount" shall have the meaning set forth in Section 8.20(d).

"B Building" shall have the meaning set forth in Recital D.

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

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

"Border's Lease" shall mean that certain lease agreement dated July 23, 2002 between Borders, Inc., as tenant, and the Developer, as landlord, as amended from time to time.

"Border's Opening Date" the date on which Border's, Inc. opens to the general public for business and conducts business operations at substantially all of its demised premises, as set forth in and evidenced by a letter from the Developer to DPD.

"Buildings" shall have the meaning set forth in the Recital D hereof.

"C Building" shall have the meaning set forth in Recital D.

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

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

"City Funds" shall mean the funds described in Section 4.03 hereof and the funds paid to the Developer pursuant to a City Note.

"City Note" shall mean, as applicable, either the Project Note or the Redevelopment Area Note, and "City Notes" shall mean both such notes.

"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 F 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.

"Employer(s)" shall have the meaning set forth in Section 16 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 consisting of contributed and unreturned capital contributions from Developer's members invested in the Project to pay Project costs in the amount set forth in Section 4.01 hereof, which amount may be increased pursuant to Section 4.07 (Cost Overruns).

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

"Escrow Agreement" shall mean the Escrow Agreement establishing a construction escrow for the Project, 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).

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

"Excess Incremental Taxes" shall mean, as of any determination date, all Incremental Taxes except those Redevelopment Area Available Incremental Taxes that are required, as of such determination date, to make a scheduled debt service payment in accordance with the debt service schedule attached to the Redevelopment Area Note.

"Excess Profit Amount" shall have the meaning set forth in Section 8.20(d).

"Excluded Tax Parcels" shall mean the tax parcels comprising the following redevelopment project sites: (a) the Property (i.e., the Project Available Incremental Taxes); (b) the Leland Hotel site (currently PIN 14-17-111-012); (c) the Gunnison Lofts site (currently PIN 14-08-320-008); and (d) the Uptown Theater site (currently PINs 14-08-320-007, 14-08-320-011 and 14-08-320-013).

"Financial Statements" shall mean complete reviewed and reported financial statements of the Developer prepared by a certified public accountant in accordance with a federal income tax basis method of accounting consistently applied throughout the appropriate periods.

"General Contractor" shall mean the general contractor(s) hired by the Developer pursuant to Section 6.01.

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

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

into the TIF Fund established to pay Redevelopment Project Costs and obligations incurred in the payment thereof.

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

"Lock-Out Period" shall mean, if applicable, the period commencing on the occurrence of a Qualified Transfer and ending on the fifth anniversary of the Closing Date during which the Redevelopment Area Note may not be prepaid.

"Market Rate Condominium Units" shall mean the 29 (or such lesser number as may be applicable if units are combined) condominium units included in the Project that shall be sold at market rates.

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

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

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

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

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

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

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

"Prohibited Use" shall mean the use of any portion of the Property for any of the following uses: funeral home, massage parlor, pornographic or "adult" bookstore, tattoo parlor, flea market, any production or manufacturing or industrial use, any use which creates a nuisance or materially increases noise or emissions of dust, odor, smoke, gases, any use which materially

increases the risk of a fire, explosion or radioactive hazard, or any use involving Hazardous Materials.

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

"Project Available Incremental Taxes" shall mean an amount equal to the Incremental Taxes deposited in the TIF Fund attributable to the taxes levied on the tax parcels comprising the Property (which, as of the date hereof are permanent tax identification numbers 14-17-204-001, 14-17-204-002 and 14-17-204-003).

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

"Project Note" shall mean the City of Chicago Tax Increment Allocation Revenue Obligation, Lawrence/Broadway Redevelopment Project Area (Uptown Goldblatts Venture LLC Redevelopment Project) Taxable, Registered No. R-1, to be in the form attached hereto as Exhibit I-1. The Project Note shall be issued in the Project Note Amount, shall, after the Project Note Interest Accrual Date, bear interest at the Project Note Interest Rate and shall provide for accrued, but unpaid, interest to bear interest at the same annual rate. Interest on the Project Note shall be taxable for federal income taxes purposes. The Project Note shall be repayable solely from Project Available Incremental Taxes, unless the City, in its sole discretion, elects to use other legally available funds to make payments with respect to the Project Note.

"Project Note Amount" shall mean a maximum principal amount equal to the sum of (a) \$2,400,000, plus (b) any remaining unpaid portion of the Affordable Condominium Unit Subsidy Amount (if any) as of the issuance date for the Project Note, but in no event shall the maximum principal amount exceed \$2,800,000. If Section 8.20(d) is applicable and the City elects option (y) thereunder, the Project Note Amount is subject to reduction as described in Section 8.20(d). If the Developer's \$1,250,000 contribution to the Leland Hotel redevelopment project is not made by December 31, 2003 pursuant to Section 8.21, or such later date as DPD may reasonably consent to, the Project Note Amount shall be reduced by \$1,250,000.

"Project Note Interest Accrual Date" shall mean the date after the issuance of the Project Note that is a number of days equal to the number of days that has elapsed between the Closing Date and the date on which the Developer has obtained all building permits required for the construction of all core and shell improvements for the non-residential portion of the

Project, as reflected in the debt service schedule to be attached to the Project Note.

"Project Note Interest Rate" shall mean an annual rate of nine and 38/100 percent (9.38%).

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

"Qualified Household" shall mean a single person, family or unrelated persons living together whose adjusted income at the time of its purchase of an Affordable Condominium Unit is not more than 80% of the Chicago-area median income, adjusted for family size, as such adjusted income and Chicago-area median income are determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937. As of the Closing Date, such income limitations are as follows:

<u># of Persons In Household</u>	<u>80% of AMI</u>
1	\$38,100
2	\$43,500
3	\$48,950
4	\$54,400
5	\$58,750
6	\$63,100

"Qualified Transfer" shall mean a sale or assignment of the Redevelopment Area Note or pledge of the Redevelopment Area Note to a lender providing Lender Financing so long as (a) any sale or assignment is to a "qualified investor" with no view to resale or reassignment, (b) any sale or assignment is pursuant to an acceptable investment letter, (c) any sale, assignment or pledge is for a price that will yield net proceeds or an increase in the Lender Financing, as applicable, in an amount not less than 75% of the principal amount of the transferred City Note at the time of such sale or pledge, (d) the net proceeds from (i) any such sale or assignment are either (A) immediately deposited in the TIF Proceeds Subaccount to be established under the Escrow Agreement and subsequently disbursed in accordance with Section 4.05, or (B) used to permanently pay down Lender Financing, and (ii) any pledge are deposited in the TIF Proceeds Subaccount to be established under the Escrow Agreement and subsequently disbursed in accordance with Section 4.05, which deposit need not be immediate and may be made from time to time in the due course of funding the increased Lender Financing so long as the lender agrees in writing that, upon the occurrence of an Event of Default, it shall immediately fund directly to the City an unfunded portion of such net proceeds (or, if the City and the lender both agree in writing, the Redevelopment Area Note may be

reduced by an amount equal to such unfunded amount or otherwise redelivered and canceled in lieu of the lender's making of such payment), and (e) any such pledge or sale is in a manner otherwise reasonably acceptable to the City (which acceptance may, in the Commissioner's sole discretion, include a modification of the requirements set forth in the preceding clauses (a) through (d)).

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

"Redevelopment Area Available Incremental Taxes" shall mean, with respect to any annual payment computation, an amount equal to the Incremental Taxes deposited in the TIF Fund during the preceding calendar year and arising from the taxes levied on all of the tax parcels in the Redevelopment Area, but expressly excluding an amount equal to the Incremental Taxes attributable to taxes levied on the Excluded Parcels. Notwithstanding the foregoing definition, but subject to the shortfall payment exception set forth in the second paragraph of Section 4.03(b)(vi), in no event shall the Redevelopment Area Available Incremental Taxes exceed an amount necessary to make the next annual payment then due under the debt service schedule attached to the Redevelopment Area Note.

"Redevelopment Area Note" shall mean the City of Chicago Tax Increment Allocation Revenue, Lawrence/Broadway Redevelopment Project Area (Uptown Goldblatts Venture LLC Redevelopment Project) Taxable, Registered No. R-2, to be in the form attached hereto as Exhibit I-2. The Redevelopment Area Note shall be issued in the maximum original principal amount of \$4,300,000 and shall bear interest at the Redevelopment Area Note Interest Rate and shall provide for accrued, but unpaid, interest to bear interest at the same annual rate. Interest on the Redevelopment Area Note shall not be taxable for federal income taxes purposes. The Redevelopment Area Note shall be repayable solely from Redevelopment Area Available Incremental Taxes, unless the City, in its sole discretion, elects to use other legally available funds to make payments with respect to the Redevelopment Area Note.

"Redevelopment Area Note Interest Rate" shall mean the annual rate of eleven and 925/1000 percent (11.925%)

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

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

"Requisition Form" shall mean the document, in the form attached hereto as Exhibit J-1 (as applicable to requests for payment under the City Notes) or Exhibit J-2 (as applicable to requests for payment with respect to the Affordable Condominium Unit Subsidy Amount or the Shortfall Amount) to be delivered by the Developer (or a permitted holder of a City Note) to DPD pursuant to Section 4.04 of this Agreement.

"Retail or Approved Purposes" means use of the non-residential portions of the Project for (a) any retail or commercial use (which commercial uses shall not include office or banking uses on the ground floor or traditional fast food restaurants such as McDonalds, Burger King or KFC but shall include new fast casual concepts such as Cosi, Corner Bakery, Quiznos and Potbelly's), and (b) any other use approved by DPD, in its sole discretion, and, in either case, which use is not a Prohibited use, but which may include a use that would otherwise be prohibited under (a).

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

"Shortfall Amount" shall mean an amount equal to the amount of unpaid principal and interest, if any, that remains unpaid with respect to the Redevelopment Area Note on its maturity date.

"Survey" shall mean an ALTA/ACSM urban survey (1999 Minimum Standard Detail Requirements) 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, indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency and containing such Table A requirements as the City may reasonably require (and updates thereof to reflect improvements to the Property in connection with the construction of Building C 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 December 31, 2025, such date being the last day of the calendar year in which the taxes levied in the year that is 23 years after the creation of the Redevelopment Area are paid.

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

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

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

"TIF 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.

"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 D lists the TIF-Funded Improvements for the Project.

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

"Title Company" shall mean Chicago Title Insurance Company.

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

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

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

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) acquire the Property on the Closing Date; (ii) commence demolition work no later than February 2003; (iii) commence rehabilitation and construction of the Project improvements no later than May 2003; (iv) complete rehabilitation and construction of the retail portions of the Project no later than April 2004; and (v) complete rehabilitation and construction of the residential portions of the Project no later than October 2004.

3.02 Scope Drawings and Plans and Specifications. The Developer has delivered the Scope Drawings and Plans and

Specifications (or, if the Commissioner of DPD consents to close this Agreement on the Closing Date with partially completed Plans and Specifications, such partially completed Plans and Specifications as shall be acceptable to the Commissioner) 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 Twenty-Three Million Thirty-Nine Thousand Dollars (\$23,039,000). The Developer hereby certifies to the City that (a) the Lender Financing and Equity described in Section 4.02 hereof, shall be sufficient to complete the Project 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 usable square footage of the any of the three buildings in the Project; (b) a change in the use of the Property to a use other than uses permitted under Recital D; (c) a delay in meeting any deadline set forth in Section 3.01; or (d) Change Orders costing more than \$100,000 each, to an aggregate amount of \$300,000. The Developer shall not authorize or permit the performance of any work relating to such Change Order or the furnishing of materials in connection therewith prior to the receipt by the Developer of DPD's written approval, if applicable. 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. Notice of Change Orders that, under this Section 3.04 do not require DPD's

prior written approval, shall be included in the progress reports required under Section 3.08 and shall include an identification of the funding source for such additional costs.

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. The Developer shall provide DPD with written quarterly progress reports detailing the status of the Project, including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring DPD's written approval pursuant to Section 3.04). The Developer shall provide three (3) copies of an updated Survey to DPD upon the request of DPD or any lender providing Lender Financing, reflecting improvements made to the Property.

3.08 Inspecting Agent or Architect. An inspecting architect acceptable to DPD shall be retained prior to the closing date to act as DPD's inspecting architect with respect to the historic preservation work described in Exhibit C, at the Developer's expense. The inspecting architect for the lender providing the Lender Financing shall act as DPD's inspecting architect with respect to the remainder of the Project, at the Developer's expense. Each inspecting architect shall perform periodic inspections with respect to its portion of the Project, providing certifications with respect thereto to DPD, prior to requests for disbursement for costs related to the Project and at such other times as DPD may reasonably request.

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 \$23,039,000, 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 4.07</u>)	\$ 4,039,000
Lender Financing	\$ 19,000,000

ESTIMATED TOTAL \$ 23,039,000

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

4.03 City Funds.

(a) Uses of City Funds. City Funds may only be used to pay directly or reimburse the Developer for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs. Exhibit D 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 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-City Notes. 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 issue two City Notes to the Developer. The principal amount of each City Note shall be in an amount not greater than the costs of the TIF-Funded Improvements which have been incurred by the Developer (and which have not previously been counted in determining the balance of the other City Note or the Affordable Condominium Unit Subsidy Amount) and are to be reimbursed by the City through payments of principal and interest on the City Note(s), subject to the provisions hereof. Payments under the City Notes are subject to the amount of Project Available Incremental Taxes and the Redevelopment Area Available Incremental Taxes, as applicable, being sufficient for such payments.

(i) Issuance of Project Note. The Project Note will be issued to the Developer on the date the City issues the Certificate of Completion with a principal balance equal to the cost of TIF-Funded Improvements incurred by the Developer prior to such issuance date, up to a maximum principal amount equal to the Project Note Amount. The Developer, in its election, after satisfying the other conditions precedent to the issuance of a Certificate of Completion, may elect to delay the issuance of the Developer Note to a date not later than June 30, 2005 by delivering written notice to DPD of such election. If the Certificate of Completion and the Project Note are not issued by June 30, 2005, or such later date as DPD, in its sole discretion, may agree to, the City will have no obligation to issue the Project Note and any amounts previously paid by the City towards the Affordable Condominium Unit Subsidy Amount shall be subject to recapture by the City (except for \$73,894, representing the amount of costs described in Section 5/11-74.4-3(q)(1) of the Act incurred by the Developer on behalf of the City in connection with the establishment of the Area).

(ii) Issuance of Redevelopment Area Note The Redevelopment Area Note will be issued to the Developer on January 2, 2003 with a principal balance equal to the cost of TIF-Funded Improvements incurred by the Developer prior to such issuance date, up to a maximum principal amount of \$4,300,000.

(iii) Pledge of Project Available Incremental Taxes. Subject to the limitations set forth in this Section 4 and in the Project Note, the City agrees to reserve and pledge the Project Available Incremental Taxes to the payments due under the Project Note.

(iv) Pledge of Redevelopment Area Available Incremental Taxes. Subject to the limitations set forth in this Section 4 and in the Redevelopment Area Note, the City agrees to reserve and pledge the Redevelopment Area Available Incremental Taxes to the payments due under the Redevelopment Area Note.

(v) Payments on Project Note. The Project Note attached hereto as Exhibit I-1 will include a debt service schedule that will require annual payments of \$270,000 (which figure assumes full repayment of the Affordable Condominium Unit Subsidy Amount, and which may be adjusted upwards if such full repayment does not occur) commencing on the later to occur of (x) the issuance of the Certificate (which is itself a condition precedent to the issuance of the Project Note) and (y) February 1, 2006. The first payment with respect to the Project Note shall be made on the later to occur of February 1, 2006 (from Project Available Incremental Taxes received by the City in 2005) or two months from the City's receipt of a Requisition Form in accordance with Section 4.04. Thereafter, annual payments shall be made on the later to occur of February 1st of each subsequent calendar year or two months from the City's receipt of a Requisition Form.

If, in any year, Project Available Incremental Taxes are insufficient to make such scheduled annual payment, then, in the next year (and if required, any subsequent years), Project Available Incremental Taxes shall first be applied to repay any shortfall amounts, and then applied to make such year's scheduled annual payment. In the event Project Available 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 Project Available Incremental Taxes to prepay the Project Note, prepay the Redevelopment Area Note (unless the Lock-Out Period is in effect) or for any other legal use that the City may deem necessary or appropriate. The Project Note may be prepaid in whole or in part, without premium or penalty, at any time.

If the Developer defaults under the operations covenant set forth in Section 8.06(b), interest shall immediately cease to accrue on the Project Note effective as of the actual date on which such default occurred (as compared to the October 1st testing date) and no payments shall be made

with respect to the Project Note during any cure period applicable to such default. Any Project Available Incremental Taxes that would have been used to make payments during such time period shall, however, be reserved by the City pending the possible cure of such default. If such default is cured, interest shall again begin to accrue on the Project Note effective as of the actual date on which the default is cured and any reserved payments of Project Available Incremental Taxes shall be released by the City and used to pay the Project Note. If such default is not cured, the City shall have the remedies set forth in Section 15.03.

(vi) Payments on Redevelopment Area Note. The Redevelopment Area Note attached hereto as Exhibit I-2 includes a debt service schedule that requires the annual payments reflected thereon. The first payment with respect to the Redevelopment Area Note shall be made on the later to occur of February 1, 2004 (from Redevelopment Area Available Incremental Taxes received by the City in 2003) or two months from the City's receipt of a Requisition Form in accordance with Section 4.04. Thereafter, annual payments shall be made on the later to occur of February 1st of each subsequent calendar year or two months from the City's receipt of a Requisition Form.

If, in any year, Redevelopment Area Available Incremental Taxes are insufficient to make such scheduled annual payment, then, in the next year (and if required, any subsequent years), Redevelopment Area Available Incremental Taxes shall first be applied to repay any shortfall amounts, and then applied to make such year's scheduled annual payment. In the event Redevelopment Area Available 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 Redevelopment Area Available Incremental Taxes to prepay the Project Note, to prepay the Redevelopment Area Note (unless the Lock-Out Period is in effect) or for any other legal use that the City may deem necessary or appropriate. Unless the Lock-Out Period is in effect, the Redevelopment Area Note may be prepaid in whole or in part, without premium or penalty.

(vii) Transfer of Project Note. After its issuance, the Project Note may be pledged to a lender providing Lender Financing, but may not be sold without the consent of the Commissioner of DPD, which consent shall be in the Commissioner's reasonable discretion. Notwithstanding any such permitted pledge, the City shall have no obligation to make any payments with respect to the Project Note except to

the Developer, and then subject to the conditions set forth in this Agreement and the Project Note.

(viii) Transfer of Redevelopment Area Note. After its issuance, the Redevelopment Area Note may be sold or assigned within the first 24 months in a Qualified Transfer. After such 24 month period, the Redevelopment Area Note may not be sold until the issuance of a Certificate. Thereafter, the Redevelopment Area Note may again be sold in a Qualified Transfer.

(ix) Cessation of Project Note Payments. If an Event of Default occurs, the City shall have no further obligations to make any payments with respect to the Project Note and the City shall have the remedies set forth in Section 15.

(x) Limited Cessation of Redevelopment Area Note Payments. After a Qualified Transfer of the Redevelopment Area Note in accordance with Section 4.03(b)(viii) above, if an Event of Default thereafter occurs, the City will, notwithstanding such Event of Default, continue to make payments with respect to the Redevelopment Area Note. In any other circumstance, if an Event of Default occurs, the City shall have no further obligations to make any payments with respect to the Redevelopment Area Note and the City shall have the remedies set forth in Sections 7.03 and 15.

(xi) Other Incremental Taxes. Any Incremental Taxes that either (a) are not Project Available Incremental Taxes, (b) are not Redevelopment Area Available Incremental Taxes, (c) are not required to make payments under this Agreement (whether because all currently due payments have been made, because of the failure of the Project Note to issue, because of an Event of Default entitling the City to terminate further payments with respect to one or more of the City Note, because of the full repayment of a City Note, or otherwise) shall belong to the City and may be pledged or used for such purposes as the City deems necessary or appropriate.

(c) Sources of City Funds-Affordable Condominium Unit Subsidy Amount. Subject to the terms and conditions of this Agreement, the City hereby agrees to pay the Developer, on a pay-as-you-go basis prior to the issuance of the Project Note (i.e., as currently contemplated, in 2002, 2003, 2004 and 2005, from the Project Available Incremental Taxes received by the City during the prior calendar year) the Project Available Incremental Taxes until such time as the Developer has been paid the Affordable Condominium Unit Subsidy Amount. In addition, in 2002, the City agrees to pay the Developer, from the Redevelopment Area Available Incremental Taxes collected in such calendar year, an

amount, not to exceed \$73,894, representing the portion of the Affordable Condominium Unit Subsidy Amount attributable to the costs described in Section 5/11-74.4-3(q)(1) of the Act incurred by the Developer on behalf of the City in connection with the establishment of the Area, which payment shall be made before giving effect to the payment of the Project Available Incremental Taxes paid in 2002. In the event that the entire Affordable Condominium Unit Subsidy Amount has not been paid by the time the Project Note is issued, any unpaid portion of the Affordable Condominium Unit Subsidy Amount shall be included in the Project Note Amount, which shall in no event exceed \$2,800,000. Payments of the Affordable Condominium Unit Subsidy Amount shall be made in accordance with Section 4.04 below and is subject to the Developer's prior incurrence of TIF-Funded Improvement Costs in such amount.

(d) Sources of City Funds-Shortfall Amount. Subject to the terms and conditions of this Agreement, if, as of the maturity date of Redevelopment Area Note, such note has not been fully repaid, the City hereby agrees to thereafter pay to the Developer, on a pay-as-you-go basis, the Shortfall Amount solely from the Redevelopment Area Available Incremental Taxes thereafter received by the City during the Term of this Agreement. Upon the expiration of the Term of the Agreement, if any portion of the Shortfall Amount remains unpaid, such amount shall go unpaid and the Developer shall have no right to seek any reimbursement from the City from any source. Payments of the Shortfall Amount shall be made in accordance with Section 4.04 below and is subject to the Developer's prior incurrence of TIF-Funded Improvement Costs in such amount that have not previously been taken into account under this Agreement.

4.04 Requisition Form. (a) After the Closing Date, and continuing throughout the earlier to occur of (i) the Term of the Agreement, (ii) the date that the City Notes have been fully repaid, or (iii) with respect to each City Note, the maturity date for such City Note, the Developer (and any permitted purchaser of a City Note), on or about February 1st (or such other date(s) as the parties may agree to), shall provide DPD with a Requisition Form, along with the documentation described therein in order to request the payment of City Funds with respect to the City Notes, the Affordable Condominium Unit Subsidy Amount (such requests only being applicable prior to the issuance of the Project Note) and the Shortfall Amount, if any, as applicable. On or about each February 1st (or such other date(s) as may be acceptable to the parties), throughout the Term of the Agreement, the Developer (and any permitted purchaser of a City Note) shall meet with DPD at the request of DPD to discuss the Requisition Form(s) previously delivered. All City Funds paid pursuant to a Requisition Form shall be used to pay principal and interest costs on the City Notes the proceeds of which were used

to pay for TIF-Funded Improvements costs, and to pay or reimburse the Developer for TIF-Funded Improvement costs in amounts equal to the Affordable Condominium Unit Subsidy Amount and (if applicable) the Shortfall Amount, and for other Redevelopment Project Costs that might be payable to the City pursuant to this Agreement.

(b) The City shall approve or disapprove (with a brief written explanation for any disapproval) a Requisition Form within thirty (30) days of receipt of the Requisition Form. Any disapproved Requisition Form may be resubmitted for approval after any unsatisfied conditions precedent have been satisfied.

4.05 Construction Escrow. Any net proceeds arising from the issuance and sale of the Redevelopment Area Note or pledge of the Redevelopment Area Note resulting in increased Lender Financing that are deposited into the TIF Funds Subaccount established under the Escrow Agreement shall be disbursed as follows. First, all Equity for the Project shall be funded. Thereafter, such net proceeds shall be disbursed on a pro rata basis (i.e., with the City funding an amount equal to the draw request amount times a fraction, the numerator of which is the total net proceeds and the denominator of which is the total Project Costs, less Equity) with the Lender Financing, provided, however, that net proceeds may only be disbursed to fund the cost of TIF-Funded Improvements (other than acquisition costs). If a given draw request does not include enough TIF-Funded Improvement costs to permit such pro rata funding, only such amount of net proceeds as may be supported by TIF-Funded Improvement costs shall be disbursed and any shortfall amount may be made as a "catch-up" payment in the next draw request(s). The City shall be a party to the Escrow Agreement for purposes of receiving copies of draw request documents, but shall not have approval rights over draws unless such draw involve the disbursement of such net proceeds and such proceeds result from the sale of the Redevelopment Area Note or pledge of the Redevelopment Area Note to the lender providing the Lender Financing resulting in increased Lender Financing. The City must receive copies of any draw requests and related documents submitted to the Title Company for disbursements under the Escrow Agreement.

4.06 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 K hereto sets forth the prior

expenditures approved by DPD as of the date hereof 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 only, with transfers of costs and expenses from one line item to another, without the prior written consent of DPD, being prohibited; provided, however, that such transfers among line items, in an amount not to exceed \$25,000 or \$100,000 in the aggregate, may be made without the prior written consent of DPD.

4.07 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.

4.08 Preconditions of Disbursement. Prior to each disbursement of City Funds pursuant to a Requisition Form, 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 disbursement of City Funds 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 disbursement, that:

(a) the total amount of the disbursement request represents the actual cost of the amount payable to (or 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 Requisition Form have been paid to the parties entitled to such payment;

(c) the Developer has approved all work and materials for the current disbursement request, 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 Equity, if any; (iii) the undisbursed Lender Financing, if any, and (iii) 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, deposit with the escrow agent or will 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 disbursement 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 disbursement of City Funds for each disbursement including but not limited to requirements set forth in the Bond Ordinance, if any, TIF Bond Ordinance, if any, the Bonds, if any, the TIF Bonds, if any, the TIF Ordinances, this Agreement and/or the Escrow Agreement.

4.09 Conditional Grant. Certain of the City Funds being provided hereunder are being granted on a conditional basis, subject to the Developer's compliance with the provisions of this Agreement. The City Funds are subject to being reimbursed as provided in Sections 7.03 and 15.03 hereof.

4.10 Cost of Issuance. The Developer shall be responsible for paying all costs relating to the issuance of the Redevelopment Area Note, including costs relating to the opinion described in Section 5.09(b) hereof.

4.11 Historic Tax Credits or Other Funds. If the Developer or its Affiliate realizes additional funds (either directly, in the form of cash equity, or indirectly, through receipt of tax credits or deductions) in connection with the grant of a preservation or conservation easement or claiming of historic tax credits with respect to the Project or a portion thereof, such additional funds or economic benefit shall be treated as follows.

(a) Direct Funds Used to Repay Lender Financing. If the lender providing the Lender Financing requires that such additional funds, or a portion thereof, be used to repay any indebtedness owed to it, then the Project Note Amount shall be reduced, retroactive to the issuance date of the Project Note, by an amount equal to the product of (i) a fraction, the numerator of which is the then-existing Project Note Amount and the denominator of which is the original principal amount of the Lender Financing, times (ii) the amount of funds repaid to such lender.

(b) Direct Funds Not Used to Repay Lender Financing or Economic Benefit. If either (x) the lender providing the Lender Financing does not require that such additional funds be used to repay any indebtedness owed to it, or only requires that a portion of such funds be used for such repayment, and in either case permits the Developer (or its Affiliate) to retain such additional funds, or (y) the Developer (or its Affiliate) realizes a net economic benefit from a tax deduction related to a preservation, conservation or similar easement, then any additional funds or net economic benefit shall be shared equally between the Developer and the City (which sharing may take the form either of a payment to the City, in the event of the Developer's actual receipt of funds, or in a deemed prepayment of the Project Note, in the event of the Developer's receipt of a net economic benefit, by the amount of such economic benefit).

The determination of the net economic benefit shall be made in good faith by the mutual agreement of the parties taking into account such factors as the tax rate of the person or parties' entitled to claim such deduction and the net tax savings realized by the claiming of such deduction.

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, provided, however, that the Developer may, with the consent of the Commissioner of DPD, close with less than full building permits for the Project.

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 other sources set forth in Section 4.01 to complete the Project. The Developer has delivered to DPD a copy of the Escrow Agreement, which shall incorporate the provisions required under this Agreement and shall otherwise be in a form reasonably acceptable to the City. 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. 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 H 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 names of Developer and each of its direct and indirect owners (other than individual persons):

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
U.S. Bankruptcy Court	Bankruptcy suits and judgments
Clerk of Circuit Court, Cook County	Pending suits and judgments, including bankruptcy suits and judgments

showing no liens against such parties, 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. An opinion of counsel substantially in the form of Exhibit L.

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 4.06(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, including, without limitation, its MBE/WBE Utilization Plan and evidence of having met at least one time with and having provided bid documents to applicable MBE/WBE contractor associations.

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; a certificates of existence from the Secretary of State of Illinois; a manager's or managing member's certificate in such form and substance as the Corporation Counsel may require; the Developer's operating agreement; such member consents as may be required; and such other corporate documentation for the Developer's direct and indirect owners as the City may reasonably require. The Developer and all other required parties have provided to the City an Economic Disclosure Statement, in the City's then current form, dated 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.

5.16 Leases. The Developer has provided a copy of the Border's Lease and all other executed leases relating to the Property.

5.17 Project Ownership Documents. The Developer has provided copies of all condominium documents, reciprocal easement agreements, common area agreements, plats of subdivision (vertical or otherwise) that have been prepared as of the Closing Date and other material agreements that will govern the ownership and integrated operation of the Project buildings and the residential units located therein.

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. 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. 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 10% 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. 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 contracting, hiring and testing requirements associated with the MBE/WBE and City resident

obligations in Section 10 shall be applied on an aggregate basis and the failure of the General Contractor to require each subcontractor to satisfy, or the failure of any one subcontractor to satisfy, such obligations will not result in a default under or a termination of this Agreement or require payment of the City resident hiring shortfall amount so long as such Section 10 obligations are 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 the occurrence of (a) completion of the rehabilitation and construction work for the Project in accordance with Recital D and Exhibit C and the other terms of this Agreement, (b) issuance of a certificate of occupancy for all non-residential portions of the Buildings (or, with respect to non-residential portions that are not yet leased, deposit into the escrow established under the Escrow Agreement of an amount reasonably sufficient to cover the landlord's cost of tenant improvement work for such unleased space), (c) written determination by the City's monitoring and compliance unit that the Developer has satisfied all Section 8.09 and Section 10 requirements (or, in the case of prevailing wage or City residency violations, paid all amounts due), (d) satisfaction of all then applicable Section 8.20 requirements, (e) closing (i.e., conveyance and receipt of the purchase price) on at least 12 of the Market Rate Condominium Units, (f) Border's Opening Date, (g) a preliminary reconciliation of the Project costs as of such point in time, and (h) the Developer's written request, DPD shall issue to the Developer a Certificate in recordable form certifying that the Developer has fulfilled its obligation to complete the physical construction and rehabilitation work associated with the Project in accordance with the terms of this Agreement. 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. The Certificate relates only to the construction and rehabilitation work associated with the Project and the other matters enumerated in Section 7.01, and upon its issuance, the City will certify that the terms of the Agreement specifically related to the Developer's obligation to complete such activities have been satisfied. After the issuance of a Certificate, however, all executory terms and conditions of this Agreement and all representations and covenants contained herein will continue to remain in full force and effect throughout the Term of the Agreement as to the parties described in the following paragraph, and the issuance of the Certificate shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms.

Those covenants specifically described at Sections 8.01(j), 8.01(k), 8.01(n), 8.01(o), 8.02, 8.06, 8.19, 8.20, 8.21, 8.22 and 8.23 shall be covenants that run with the land and 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 (or such lesser period as may be expressly identified in any such covenant) notwithstanding the issuance of a Certificate,; provided, that upon the issuance of a Certificate, the covenants set forth in Section 8.02 shall be deemed to have been fulfilled. The other executory terms of this Agreement that remain after the issuance of a Certificate shall be binding only upon the Developer or a permitted assignee of the Developer who, pursuant to Section 18.15 of this Agreement, has contracted to take an assignment of the Developer's rights under this Agreement and assume the Developer's liabilities hereunder.

7.03 Failure to Complete. If the Developer fails to complete the Project in accordance with the terms of this Agreement, then the City has, but shall not be limited to, 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 (subject to Section 4.03(b)(x));

(b) the right (but not the obligation) to complete those TIF-Funded Improvements that are public improvements or 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 from the Developer of an amount equal to the net proceeds directly or indirectly received by the Developer from a Qualified Transfer of the Redevelopment Area Note (whether through a Qualified Transfer to a third party purchaser, through increased Lender Financing, or otherwise), less any amount contributed to the Leland Hotel rehabilitation project in accordance with Section 8.21. The City shall, in its sole discretion, have the right to secure the Developer's reimbursement obligation under this Section 7.03(c) and Section 7.03(d) below by a second mortgage on the Property, which shall be subordinate the first mortgage of the lender providing the Lender Financing; and

(d) the right to recapture any amounts paid by the City towards the Affordable Condominium Shortfall Amount (except for \$73,894, representing the amount of costs described in Section 5/11-74.4-3(g)(1) of the Act incurred by the Developer on behalf of the City in connection with the establishment of the Area).

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

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

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

(a) the Developer is an Illinois limited liability company duly organized, validly existing, qualified to do business in the State of Illinois;

(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 limited liability action, and does not and will not violate its Articles of Organization] or operating agreement, 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 or the Property is now or may become bound;

(d) except as expressly permitted 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 (or, during Developer's period of ownership of the Property, or any portion thereof) 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 (or shall, in the course of construction, shall obtain) 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 a 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; (2) sell (except sales of individual condominium units as contemplated by this Agreement), transfer (except a transfer of the condominium or retail portion of the Project to a single purpose entity that has the same owners as the Developer, or constituent owners if such owner is a business entity or to DDL LLC (which is a managing member of the Developer) or to an entity directly or indirectly owned and controlled by DDL LLC,

provided such transferee agrees in writing to be bound by the applicable provisions of this Agreement), convey, lease (except leases to Approved Tenants as contemplated by this Agreement) or otherwise dispose of all or substantially all of its assets or any portion of the Property; (3) enter into any transaction outside the ordinary course of the Developer's business; (4) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity; or (5) enter into any transaction that would cause a material and detrimental change to the Developer's financial condition;

(k) after the issuance of a Certificate, the Developer may take any action described in Section 8.01(j), provided that the Developer shall obtain DPD's prior written consent to any direct or indirect sale, transfer or conveyance of the Property or any portion thereof (excluding sales of individual condominium units) or a majority ownership interest therein (such as, for example, by a transfer of Developer's membership interests) that occurs within five years of the Border's Opening Date; such DPD consent shall not be unreasonably withheld and shall, if not denied in writing within thirty days of DPD's receipt of a letter requesting such approval, shall be deemed approved; any such letter requesting DPD consent shall, to merit the deemed approval provided for under this Section 8.01(k), state in boldface, underscored, capitalized type: **"IF THE CITY DOES NOT WITHHOLD ITS CONSENT TO THE PROPOSED TRANSFER DESCRIBED HEREIN WITHIN 30 DAYS OF ITS RECEIPT OF THIS LETTER, THE CITY, PURSUANT TO SECTION 8.01(K) OF THE UPTOWN GOLDBLATT'S VENTURE LLC REDEVELOPMENT AGREEMENT DATED _____, 2002 BETWEEN THE CITY AND UPTOWN GOLDBLATT'S VENTURE LLC, SHALL BE DEEMED TO HAVE CONSENTED TO SUCH TRANSFER"**;

(l) the Developer has not incurred, and, prior to the issuance of a 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 and mortgage liens encumbering individual condominium units sold to private purchasers 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;

(m) 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;

(n) for a period of ten years dating from the issuance of the Certificate (or, if earlier, Border's Opening Date), no portion of the Property shall be leased to a tenant that engages in a Prohibited Use, nor shall the Developer otherwise permit any portion of the Property to be used for any such Prohibited Use; and

(o) during the Term of the Agreement, the Developer shall maintain (or cause the applicable condominium association to maintain, or cause such maintenance to occur under the terms of a common area agreement, reciprocal easement agreement or other means reasonably acceptable to DPD) the exterior of Buildings A and B in accordance with the maintenance requirements set forth in Exhibit C.

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 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 Other Bonds. The Developer shall, at the request of the City, agree to any reasonable amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole discretion) any bonds in connection with the Redevelopment Area, the proceeds of which may be used to reimburse the City for expenditures made in connection with, or provide a source of funds for the payment for the TIF-Funded Improvements, including, without limitation, any prepayment of the City Notes (subject to any prohibited prepayment during the Lock-Out Period); provided, however, that any such amendments shall not have a material adverse effect on the Developer or the Project. The Developer shall, at the Developer's expense, cooperate and provide reasonable assistance in connection with

the marketing of any such Bonds, including but not limited to providing written descriptions of the Project, making representations, providing information regarding its financial condition and assisting the City in preparing an offering statement with respect thereto. Developer shall not have any liability to the City with respect to any disclosures made in connection with any such issuance of Bonds that are actionable under applicable securities laws unless such disclosures are based on factual information provided by the Developer that is determined to be false and misleading.

8.06 Leasing and Occupancy Covenants. (a) For a period of five years from the Border's Opening Date, only Borders, Inc., or any assignee(s) or sublessee(s) permitted under the Border's Lease, shall lease, occupy and conduct business operations at the Border's, Inc., demised premises in the A Building. The lease and occupancy of such demised premises by any other entity during such five year period shall require the approval of DPD, which approval shall be in DPD's sole discretion.

(b) For a period of ten years from the Border's Opening Date, the first floor space in the A Building initially demised under the Border's Lease shall at all times be leased and occupied and business operations shall be conducted at such space on a continuous basis. During years six through ten (i.e., after Section 8.06(a) is no longer applicable), only Approved Tenants may lease, occupy and conduct business operations at such space. The operations covenant in this Section 8.06(b) shall be tested as described and have the special cure periods provided for in Section 15.02(b). If the Developer avails itself of such special cure period(s) under Section 15.02(b), the ten year covenant period shall be extended by the number of months of such cure period(s) that elapse prior to the cure of the default. If any cure period is extended due to a bankruptcy filing described in Section 15.02(b), the ten year covenant period shall also be extended by the number of months that elapse from the time of such filing to the affirmation or rejection of the subject lease.

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. The Developer shall deliver to the City written progress reports detailing compliance with the requirements of Sections 8.09, 10.02 and 10.03 of this Agreement. Such reports shall be delivered to the City when the Project is 25%, 50%, 70% and 100% completed (based on the amount of expenditures incurred in relation to the Project Budget). If any such reports indicate a shortfall in compliance, the Developer shall also deliver a plan to 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. The Developer shall obtain and provide to DPD Financial Statements for the Developer's fiscal year ended December 31, 2001 and each December 31st 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. The Developer's obligation under this Section 8.15(a) shall not apply to Non-Governmental Charges payable by owners of individual condominium units after such time as such unit owners, under the terms of their purchase contracts and/or the condominium declaration, become responsible for the payment of such Non-Governmental Charges.

(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.

(c) Not Applicable to Condominium Units. The provisions of Section 8.15(a) and (b) shall not apply to Non-Governmental Charges payable by, or contestable by, owners of individual condominium units after such time as such unit owners, under the terms of their purchase contracts and/or the condominium declaration, become responsible for the payment of Non-Governmental Charges attributable to their respective units.

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. 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. If this Agreement is not recorded prior to the first mortgage of the lender providing the Lender Financing, a subordination agreement between such lender and the City in which the lender subordinates its mortgage lien to the covenants that run with the land (as specified in Section 7.02) shall be recorded on the Closing Date. 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. 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,

(A) 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

(B) 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. [INTENTIONALLY OMITTED]

(d) Not Applicable to Condominium Units. The provisions of Section 8.19(a) and (b) shall not apply to Governmental Charges payable by, or contestable by, owners of individual condominium units after such time as such unit owners, under the terms of their purchase contracts and/or the condominium declaration, become responsible for the payment of Governmental Charges attributable to their respective units.

8.20 Condominium Unit Covenants. The Developer covenants that during the Term of the Agreement, or such lesser period as may expressly be provided for below, the following provisions shall govern the Affordable Condominium Units and the Market Rate Condominium Units:

(a) Sale of Affordable Condominium Units. The Developer shall sell each Affordable Condominium Unit to a Qualified Household for the applicable Affordable Price;

(b) Further Write-Down The Developer agrees to cooperate with the City to further reduce the Affordable Price from \$140,000 approximately \$100,000 through the use of CPAN or other Department of Housing or other legally available City funds, but, in the absence of such additional City funds, the Developer shall not be required to subsidize such additional price reduction and the other terms of this Agreement shall remain in full force and effect;

(c) City Second Mortgage. In connection with the marketing of each Affordable Condominium Unit, the Developer shall attach as an exhibit to each purchase contract a copy of the Mortgage, Security Agreement and Recapture Agreement, Including Restrictive Covenants, in the form of Exhibit M attached hereto, or such other form as shall be acceptable to DPD, and shall state in such purchase contract that the purchaser will be obligated to execute such junior mortgage at the time of closing and comply with its

terms thereafter. At each closing of the sale of an Affordable Condominium Unit, the Developer shall cause such fully executed and acknowledged junior mortgage to be recorded as a second mortgage lien against the purchaser's Affordable Condominium Unit;

(d) Market Rate Condominium Unit Sales. The Developer represents and warrants that its current, good faith estimate of the gross sale proceeds (exclusive of upgrades and inclusive of the sale of parking spaces) anticipated to result from the sale of the 37 condominium units is \$8,206,300 (which includes an amount equal to 3% of \$7,976,791 for sales commissions and closing costs) (the "Assumed Gross Sales Proceeds Amount"). In the event that the Developer realizes actual gross sales proceeds greater than the product of (i) 110%, times (ii) the difference between [(A) the Assumed Gross Sales Proceeds Amount, minus (B) \$279,000 (representing a portion of the Affordable Condominium Unit subsidy amount), minus (C) the product of \$15,000 times the number of unsold parking spaces, minus (D) fifty percent (50%) of the Developer's net profit, if any, as reasonably documented, attributable to any upgrades on any condominium units], then the Developer shall pay to the City fifty percent (50%) of the greatest of any of such excess amounts (such 50% amount, if any, the "Excess Profit Amount"), unless either of the next two sentences apply, in which event the Assumed Gross Sales Proceeds variable shall be recalculated as described below. If the actual Project costs exceed the current estimated costs of \$23,278,509 (which represents current estimated Project costs of \$23,039,000 plus \$229,509, calculated as an amount equal to 3% of \$7,976,791 for sales commissions and closing costs), as documented by certificates of expenditure or other documentation approved by DPD, in its reasonable discretion, then, for purposes of the calculation set forth above, the Assumed Gross Sales Proceeds Amount shall be increased by the amount of such cost overrun (e.g., if the actual Project costs are \$23,288,509, the Assumed Gross Sales Proceeds Amount variable used in (A) shall be \$8,216,300). If the actual Project costs are less than the current estimated costs of \$23,278,509, as documented by certificates of expenditure or other documentation approved by DPD, in its reasonable discretion, then, for purposes of the calculation set forth above, the Assumed Gross Sales Proceeds Amount shall be decreased by the amount of such cost overrun (e.g., if the actual Project costs are \$23,258,509, the Assumed Gross Sales Proceeds Amount variable used in (A) shall be \$8,196,300).

Within sixty days of the sale of the final Market Rate Condominium Unit (but in no event later than December 31, 2005), the Developer shall provide the City with a written report in a form reasonably acceptable to the City setting forth, without limitation, actual gross sales proceeds, the number of unsold parking spaces, and actual Project costs. If such report

indicates any Excess Profit Amount is due, the City shall reduce, retroactive as to the issuance date of the Project Note, the principal Project Note Amount by an amount equal to the payment due the City and any prior payments with respect to the Project Note, if any, shall be reapplied against the resized Project Note and the principal and interest due and payable with respect thereto. For example, if the Excess Profit Amount was \$300,000, and the original Project Note Amount was \$2,800,000, the Project Note shall be retroactively resized to an obligation with an original principal balance of \$2,500,000, and all prior payments reapplied against such resized Project Note. If the Excess Profit Amount exceeds the entire outstanding balance of the Project Note, any excess amount shall be paid in cash to the City.

8.21 Contribution to Leland Hotel Project. As part of the closing of the Leland Hotel rehabilitation project adjacent to the Property (or, if possible, on the Closing Date), the Developer will contribute \$1,250,000 to the escrow account established in connection with such closing, or as may be otherwise acceptable to the Leland Hotel developer and the City. The Developer will cooperate with the City and the Leland Hotel developer to allow the Leland Hotel redevelopment project to leverage to the fullest extent possible the \$1,250,000 contribution into additional financial resources under the State of Illinois Donations Tax Credit program.

8.22 Public Benefits Program. The Developer shall undertake a public benefits program as described on Exhibit N. On a semi-annual basis, the Developer shall provide the City with a status report describing in sufficient detail the Developer's compliance with the public benefits program.

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

SECTION 9. 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 The Developer's MBE/WBE Commitment. The Developer agrees for itself and its successors and assigns, and, if necessary to meet the requirements set forth herein, shall contractually obligate the General Contractor to agree that, during the Project:

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

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

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

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

c. Consistent with Section 2-92-440, Municipal Code of Chicago, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by the Developer), or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of (i) the MBE or WBE participation in such joint venture or (ii) the amount of any actual work performed on the Project by the MBE or WBE), by the Developer utilizing a MBE or a WBE as a General Contractor (but only to the extent of any actual work performed on the Project by the General Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the Project to one or more MBEs or WBEs, or by the purchase of materials used in the Project from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to the Developer's MBE/WBE commitment as described in this Section 10.03. The Developer or the General Contractor may meet all or part of this commitment through credits received pursuant to Section 2-92-530 of the Municipal Code of Chicago for the voluntary use of MBEs or WBEs in its activities and operations other than the Project.

d. The Developer shall deliver quarterly reports to DPD 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 DPD in determining the Developer's compliance with this MBE/WBE commitment. DPD has access to the Developer's books and records, including, without limitation, payroll records, books of account and tax returns, and records and books of account in accordance

with Section 14 of this Agreement, on five (5) business days' notice, to allow the City to review the Developer's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the Project.

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

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

g. Prior to the Closing Date, the Developer, the General Contractor and all major subcontractors shall be required to meet with the monitoring staff of DPD with regard to the Developer's compliance with its obligations under this Section 10.03. During this meeting, the Developer shall demonstrate to DPD its plan to achieve its obligations under this Section 10.03, the sufficiency of which shall be approved by DPD. During the Project, the Developer shall submit the documentation required by this Section 10.03 to the monitoring staff of DPD each month, including the following: (i) subcontractor's activity report; (ii) contractor's certification concerning labor standards and prevailing wage requirements; (iii) contractor letter of understanding; (iv) monthly utilization report; (v) authorization for payroll agent; (vi) certified payroll; (vii) evidence that MBE/WBE contractor associations have been informed of the Project via written notice and hearings; and (viii) evidence of compliance with job creation/job retention requirements. Failure to submit such documentation on a timely basis, or a determination by DPD, upon analysis of the documentation, that the Developer is not complying with its obligations hereunder shall, upon the delivery of written notice to the Developer, be deemed an Event of Default hereunder. 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) subject to Section 4.03(b)(x), 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, 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 (A) all or any portion of the Property or (B) any other real property in which the Developer, or any person directly or indirectly controlling, controlled by or under common control with the Developer, holds any estate or interest whatsoever (including, without limitation, any property owned by a land trust in which the beneficial interest is owned, in whole or in part, by the Developer), or (ii) any liens against the Property permitted or imposed by any Environmental Laws, or any actual or asserted liability or obligation of the City or the Developer or any of its Affiliates under any Environmental Laws relating to the Property.

SECTION 12. INSURANCE

The Developer shall provide and maintain, or cause to be provided, at the Developer's own expense, during the Term of the Agreement (or as otherwise specified below), the insurance coverages and requirements specified below, insuring all operations related to the Agreement, provided, however, that after the formation of the condominium association, the provisions of the condominium declaration shall govern the insurance requirements applicable to the condominium units, the common elements and the limited common elements included in such condominium property.

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

(i) Workers Compensation and Employers Liability Insurance

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

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

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

(b) Construction

(i) Workers Compensation and Employers Liability Insurance

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

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

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages shall include the following: All premises and operations, products/completed operations (for a minimum of two (2) years following project completion), explosion, collapse, underground, independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is

to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(iii) Automobile Liability Insurance (Primary and Umbrella)

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

(iv) Railroad Protective Liability Insurance

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

(v) Builders Risk Insurance

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

(vi) Professional Liability

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

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

(vii) Valuable Papers Insurance

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

(viii) Contractor's Pollution Liability

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

(c) Term of the Agreement

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

(d) Other Requirements

The Developer will furnish the City of Chicago, Department of Planning and Development, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance evidencing the required coverage to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from the Developer shall not be deemed to be a waiver by the City. The Developer shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance shall not relieve the Developer of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to terminate this Agreement until proper evidence of insurance is provided.

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

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

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

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

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

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

The Developer shall require the General Contractor, and all subcontractors to provide the insurance required herein or

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

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

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

SECTION 13. INDEMNIFICATION

13.01 General Indemnity. Developer agrees to indemnify, pay, defend and hold the City, and its elected and appointed officials, employees, agents and affiliates (individually an "Indemnitee," and collectively the "Indemnities") harmless from and against, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (and including without limitation, the reasonable fees and disbursements of counsel for such Indemnities in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnities shall be designated a party thereto), that may be imposed on, suffered, incurred by or asserted against the Indemnities in any manner 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 Indemnatee arising from the wanton or willful misconduct of that Indemnatee or any acts or omissions attributable to any condominium unit owner. 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 15.02, 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;

(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

(j) the institution in any court of a criminal proceeding (other than a misdemeanor) against the Developer which is not dismissed within thirty (30) days, or the indictment of the Developer for any crime (other than a misdemeanor);

15.02 Curative Period. (a) General Cure Periods. Subject to the special cure periods provided for in Section 15.02(b) below, 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. Subject to the special cure period provided for in Section 15.02(b) below, 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.

(b) Special Cure Period. The operations covenant in Section 8.06(b) shall, notwithstanding the language of Section 8.06(b) and except with respect to tests that serve to cure a default, only be tested on October 1st of each calendar year (i.e., if the covenant is satisfied on such October 1st, it shall be deemed satisfied for the entire 12 month period ending on such October 1st). If the Developer is in default under such covenant on an October 1st testing date, the Developer shall have 18 months from such October 1st to cure such default. If after the end of such 18 months, the default has not been cured, an Event of Default shall exist and the City shall have the remedies specified in Section 15.03. If prior to the end of such 18 month cure period, the default is cured and the Developer gives written notice to the City of such cure, then annual testing of such operations covenant shall resume. The Developer's failure to give such written notice prior to the end of such 18 month period shall be deemed conclusive evidence that such default was not cured. If a second default occurs, the Developer shall be afforded a second

cure period on the same terms as the first cure period. After a second default (and assuming a cure of such second default), any further default under Section 8.06(b) shall be an immediate Event of Default. The 18 month cure period(s) provided for in this Section 8.06(b) is subject to extension in the event that Border's, Inc. (or any Approved Tenant that constitutes a successor anchor tenant in the A Building) files a Chapter 11 bankruptcy proceeding under the United States Bankruptcy Code until such time as the trustee in such proceeding elects to either affirm or reject the subject lease. Such extension shall be equal to the time period that elapses from such filing to such affirmation or rejection decision.

Notwithstanding the above paragraph, and in lieu of the two equal 18 month cure periods provided for therein, the Developer may, by written request given not later than 12 months into the first cure period, request that the Commissioner of DPD extend the first cure period by up to 18 additional months. The Commissioner of DPD shall not unreasonably withhold consent to such a request provided the Developer has made commercially reasonable efforts to cure the default under Section 8.06(b), but, due to an inability to terminate the Border's Lease or otherwise gain control over the subject space as a result of the application of Section 23(d)(ii) of the Border's Lease, has been unable to cure such default. The bankruptcy filing extension described in the above paragraph shall not apply to further extend such extended initial cure period. If such written request is made and consented to, the first cure period shall be so extended, and the second cure period shall be reduced from 18 months by the number of months equal to the number of months by which the first cure period was so extended.

15.03 Remedies. Upon the occurrence of an Event of Default, and subject to Section 4.03(b)(x), the City may terminate this Agreement and all related agreements, and may suspend disbursement of City Funds. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to injunctive relief or the specific performance of the agreements contained herein. Such remedies shall include, without limitation, and notwithstanding the termination of this Agreement, (a) the recapture of an amount equal to the sum of all City Funds previously paid under this Agreement, exclusive of City Funds paid with respect to the Redevelopment Area Note, (b) the recovery of any amounts payable pursuant to 8.20(d), (c) specific performance of the maintenance requirements set forth in Exhibit C applicable to the historical features of Buildings A and B, (d) specific performance of use restrictions imposed under Sections 8.01(n) and Section 8.06, and (e) recapture of any sales proceeds from the initial sale of any Affordable Condominium Unit

to other than a Qualified Household or for other than an Affordable Price.

SECTION 16. MORTGAGING OF THE PROJECT

All mortgages or deeds of trust in place as of Closing Date with respect to the Property or any portion thereof are listed on Exhibit H hereto 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 (exclusive of mortgage executed with respect to and secured by individual condominium units) 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, and any mortgage executed with respect to and secured by an individual condominium unit, 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 (e.g., the City may, subject to Section 4.03(b)(viii), discontinue payments with respect to the City Notes), 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 (e.g., the City will continue to make payments with respect to any City Notes sold or assigned to and held by such mortgagee, subject to the conditions to payment set forth in this Agreement) so long as

such party accepts all of the obligations and liabilities of "the Developer" hereunder; provided, however, that, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of the Developer's interest under this Agreement, such party has no liability under this Agreement for any Event of Default of the Developer which accrued prior to the time such party succeeded to the interest of the Developer under this Agreement, in which case the Developer shall be solely responsible (provided, further, however, that if such an Event of Default is continuing, the City shall be entitled to discontinue further payments on the City Notes and exercise such remedies to the extent permitted hereunder unless the mortgagee cures such continuing Events of Default) . 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) overnight courier, or (c) registered or certified mail, return receipt requested.

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

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

If to the Developer: Uptown Golblatts Venture LLC
c/o Joseph Freed and Associates LLC
1400 S. Wolf Road, Building 100
Wheeling, Illinois 60090

With A Copy To: Piper Rudnick
203 N. LaSalle Street
Chicago, Illinois 60603
Attn: David Reifman, Esq. and
Richard Klawiter, Esq.

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

SECTION 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 A and E hereto without the consent of any party hereto. The Commissioner of DPD, with the approval of the Corporation Counsel, shall also have authority to consent to modifications to: (a) Exhibit B to reflect any revised legal descriptions resulting from the development of the Property; (b) Exhibit C if, during the course of construction and rehabilitation, it becomes apparent that certain scope or material changes are required or appropriate; (c) Exhibit G (which, if not executed by the Closing Date, may be deleted as an Exhibit); (d) Exhibits G-1 and G-2 based on actual project costs; (e) Exhibit M as necessary to accommodate or facilitate the sale and conveyance of the Affordable Condominium Units; and (f) such other non-material changes as the Commissioner deems necessary or appropriate.

18.02 Entire Agreement. This Agreement (including each Exhibit attached hereto, which is hereby incorporated herein by reference) constitutes the entire Agreement between the parties hereto and it supersedes all prior agreements, negotiations and discussions between the parties relative to the subject matter hereof.

18.03 Limitation of Liability. No member, official or employee of the City shall be personally liable to the Developer or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the

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

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

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

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

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

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

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

18.10 Severability. If any provision in this Agreement, or any paragraph, sentence, clause, phrase, word or the application thereof, in any circumstance, is held invalid, this Agreement shall be construed as if such invalid part were never included

herein and the remainder of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

18.11 Conflict. In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances and/or any Bond Ordinances, if any, 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 Certificate or otherwise administering this Agreement for the City

18.15 Assignment. The Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City, which consent shall be in the City's sole discretion, subject only to the Developer's transfer rights with respect to the City Notes as provided for in Sections 4.03(b)(vii) and (viii). 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 hereof, for the Term of the Agreement. The Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

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

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

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

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

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

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

also will pay any court costs, in addition to all other sums provided by law.

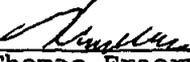
18.22 Business Relationships. The Developer acknowledges (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (B) that Developer has read such provision and understands that pursuant to such Section 2-156-030 (b), it is illegal for any elected official of the City, or any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

18.23 Qualified Transfer Discretion Notwithstanding the Qualified Transfer definition and the requirements set forth therein, the City agrees that the City will let any net proceeds described in such definition remain in the escrow (or, alternatively, delay any reduction in the Redevelopment Area Note amount) for a period of six months. If during such six month period, the lender providing the Lender Financing establishes to the City's reasonable satisfaction that it (or a designated party reasonably acceptable to the City) will complete the Project in a time frame reasonably acceptable to DPD, the City will consent to the use of such escrowed funds for such project completion. Nothing in the foregoing sentence shall be construed to limit the City's right to terminate the Project Note for such Developer failure to complete the Project.

18.24 Redevelopment Area Note. The parties agree that pursuant to the terms of that certain letter of even date herewith from the City to the Developer, the Redevelopment Area Note may be issued as a tax-exempt instrument and a supplemental debt service schedule attached, consistent with the terms of such side letter.

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.

UPTOWN GOLDBLATTS VENTURE LLC, an
Illinois limited liability company

By: 
Thomas Fraerman, Manager

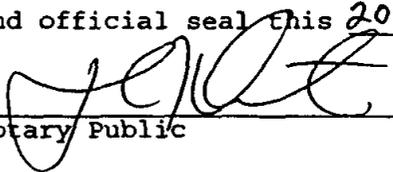
CITY OF CHICAGO, acting by and through
its Department of Planning and
Development

By: 
Alicia Mazur Berg, Commissioner 

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

I, Richard Klawiter, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Thomas Fraerman, personally known to me to be a Manager of Uptown Goldblatts, LLC, an Illinois limited liability company (the "Developer"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed, and delivered said instrument, pursuant to the authority given to him under the Operating Agreement of the Developer, as his free and voluntary act and as the free and voluntary act of the Developer, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 20th day of November, 2002.



Notary Public

My Commission Expires _____

(SEAL)



STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

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

GIVEN under my hand and official seal this 20th day of November, 2002.

Dionisia Leal
Notary Public

My Commission Expires 3/1/05



A

EXHIBIT A

Redevelopment Project Area Legal Description

[NOT ATTACHED FOR RECORDING PURPOSES]

B

EXHIBIT B

Property Legal Description

PARCEL 1:

THE SOUTH 15.55 FEET OF LOT 231, ALL OF LOTS 232, 233, 234, 235 AND THE SOUTH 15.55 FEET OF LOT 236, ALL OF LOTS 237 AND 238 IN WILLIAM DEERING'S SURRENDEN SUBDIVISION IN THE WEST ½ OF THE NORTHEASTERLY ¼ OF SECTION 17, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THAT PART OF LOT 228 LYING SOUTH AND SOUTHEASTERLY OF A LINE DRAWN IN AN EASTERLY DIRECTION AT RIGHT ANGLES TO RACINE AVENUE FROM A POINT IN THE WEST LINE OF SAID LOT 228 10 FEET 7 5/8 INCHES NORTH OF THE SOUTHWEST CORNER OF SAID LOT 228 TO A POINT 23 FEET 7 ¾ INCHES EAST OF THE WEST LINE OF SAID LOT 228; THENCE IN A NORTHEASTERLY DIRECTION 22 FEET 1 INCH TO A POINT WHICH IS 23 FEET 9 INCHES DISTANT FROM THE NORTHEASTERLY LINE OF SAID LOT 228 AND BEING IN A LINE DRAWN IN A SOUTHWESTERLY DIRECTION AT RIGHT ANGLES TO BROADWAY (FORMERLY EVANSTON AVENUE) FROM A POINT IN THE NORTHEASTERLY LINE OF SAID LOT 228, 10 FEET 7 5/8 INCHES NORTHWEST OF THE SOUTHEAST CORNER OF SAID LOT 228, THENCE CONTINUING ALONG THE LAST DESCRIBED LINE TO THE NORTHEASTERLY LINE OF SAID LOT 228 TO A POINT WHICH IS 10 FEET 7 5/8 INCHES NORTHWEST OF THE SOUTHEAST CORNER OF SAID LOT 228 MEANING AND INTENDING TO CONVEY THAT PART OF SAID LOT 228 WHICH LIES SOUTH OF THE SOUTH BASE OF THE SOUTH WALL INCLUDING THE FOUNDATION OF THE BUILDING NOW EXISTING ON THE NORTH PART OF SAID LOT 228; ALSO ALL OF LOTS 229 AND 230 AND THE NORTH 34.45 FEET OF LOT 236 AND THE NORTHWESTERLY 9.45 FEET OF LOT 231 ALL IN WILLIAM DEERING'S SURRENDEN SUBDIVISION IN THE WEST ½ OF THE NORTHEAST ¼ OF SECTION 17 TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS ACCORDING TO THE PLAT THEREOF RECORDED MAY 6, 1896 AS DOCUMENT 2384355 IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOT 228 IN WILLIAM DEERING'S SURRENDEN SUBDIVISION IN THE WEST ½ OF THE NORTHEAST ¼ OF SECTION 17, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS ACCORDING TO THE PLAT THEREOF RECORDED MAY 6, 1896 AS DOCUMENT 2384355, SITUATED IN THE CITY OF CHICAGO, EXCEPT THAT PART OR PORTION OF SAID LOT 228 HERETOFORE

CONVEYED BY THE SHERIDAN TRUST AND SAVINGS BANK TO ALBERT E. COOK BY WARRANTY DEED DATED OCTOBER 16, 1914 AND RECORDED JANUARY 18, 1915 AS DOCUMENT NUMBER 5563239 AND BY QUIT CLAIM DEED DATED OCTOBER 16, 1914 AND RECORDED MAY 11, 1915 AS DOCUMENT NUMBER 5630741, WHICH SAID PART OR PORTION SO CONVEYED TO THE SAID ALBERT E. COOK, IS DESCRIBED AS FOLLOWS: THAT PART OF SAID LOT 228 LYING SOUTH AND SOUTHEASTERLY OF A LINE DRAWN IN AN EASTERLY DIRECTION AT RIGHT ANGLES TO RACINE AVENUE, FROM A POINT IN THE WEST LINE OF LOT 228, 10 FEET 7 5/8 INCHES NORTH OF THE SOUTHWEST CORNER OF SAID LOT 228, TO A POINT 23 FEET 7 1/4 INCHES EAST OF THE WEST LINE OF SAID LOT 228; THENCE IN A NORTHEASTERLY DIRECTION 22 FEET 1 INCH TO A POINT WHICH IS 23 FEET 9 INCHES DISTANT FROM THE NORTHEASTERLY LINE OF SAID LOT 228 AND BEING IN A LINE DRAWN IN A SOUTHWESTERLY DIRECTION AT RIGHT ANGLES TO BROADWAY (FORMERLY EVANSTON AVENUE), FROM A POINT IN THE NORTHEASTERLY LOT LINE OF SAID LOT 228, 10 FEET 7 5/8 INCHES NORTHWEST OF THE SOUTHEAST CORNER OF SAID LOT 228; THENCE CONTINUING ALONG THE LAST DESCRIBED LINE TO THE NORTHEASTERLY LINE OF SAID LOT 228 AT A POINT WHICH IS 10 FEET 7 5/8 INCHES NORTHWEST OF THE SOUTHEAST CORNER OF SAID LOT 228, IN COOK COUNTY, ILLINOIS.

P.I.N.: 14-17-204-001-0000
14-17-204-002-0000
14-17-204-003-0000

Address: 4720-4740 North Broadway, Chicago, Illinois

21376589

C

EXHIBIT C

**Historic Preservation Work
and Other Required Work**

The Project includes work to two existing buildings and the construction of a new building, all within Uptown Square Historic District listed on the National Register of Historic Places:

- ▶ 4728-4750 N. Broadway (former Sheridan Trust & Savings Bank, built 1914), otherwise known as **A Building**;
- ▶ 4720-4726 N. Broadway (former Loren Miller & Company Store, built 1915), otherwise known as **B Building**; and
- ▶ 4700-4718 N. Broadway, a new 2-story building, otherwise known as **C Building**.

Prior Approval:

All exterior work and any interior work which impacts the exterior appearance of the Buildings, including the work described in this Exhibit, shall be subject to the prior review and approval of DPD as specified in the Agreement. If requested, material samples, paint colors and finishes, shop drawings, specifications, mock-ups, and control samples, as applicable, shall be submitted to DPD for review and approval. Work to the street elevations of A and B Buildings shall conform to *The Secretary of the Interior's Standards for Rehabilitation of Historic Buildings* (the "Standards").

Required Exterior Work:

Subject to the prior review and approval identified above, the following work shall be completed by the Developer:

- (1) **Masonry.** All exterior masonry on A and B Buildings shall be cleaned and repaired as conceptually identified on Sheets ARL2.0 thru ARL2.3 in the drawing set entitled, "Exterior Program - Uptown Square Redevelopment Agreement Exhibit _ : Landmarks Review Set" (the "Concept Drawings"), dated July 5, 2002, and prepared for the Buildings by Hartshorne + Plunkard and Wiss, Janney, Elstner Associates, Inc ("WJE"). This work shall address the conditions identified in the exterior conditions survey of these Buildings, entitled "Goldblatt's Building: Exterior Condition Survey of Building A and Building B," dated February 4, 2002, prepared by WJE. All replacement masonry units shall match the originals in design, color, finish, appearance, durability and material, except that a substitute material may be used for the upper-story column covers in the areas on B Building identified on Sheet ARL3.0 of the Concept Drawings, and provided that such material otherwise matches the design, color, finish, durability and appearance of the originals.
- (2) **Ornamental Metal.** All metal spandrels on A Building and the two entrance canopies on B Building shall be exposed, cleaned and repaired as conceptually identified on Sheet ARL3.0 of the Concept Drawings. Any missing metal spandrels on Building A shall be replaced. Repairs and any replacement, as necessary, shall conform to the Standards.

- (3) **Windows.** As possible, the remaining original second-floor windows on A Building shall be retained and restored. Otherwise, all windows on A and B Buildings may be replaced to match the originals, provided such work is in accordance with the Standards. The paint colors of the windows shall be submitted for review and approval. All windows shall be of clear glass, except that on the residential upper stories of B and C Buildings, the windows may be lightly tinted, depending upon the reflectivity and tint.
- (4) **Ceiling Heights and Interior Demising Walls.** Original ceiling heights shall be maintained behind all windows to the greatest extent possible. Any drops in the heights of ceilings for mechanical equipment, particularly as it pertains to the bottom two floors of A, B and C Buildings, shall be minimized and set back from the windows to the greatest extent possible so as to reduce their visibility from the street. All new interior demising walls should occur at piers or, in limited instances, window mullions.
- (5) **Balconies/Roof-top.** All new, non-habitable, roof-top appurtenances and mechanical equipment shall be set back as far as possible from the street elevations to minimize potential visibility from the public way. Balconies shall be allowed on the south elevation of B Building as conceptually shown on Sheet ARL2.3 of the Concept Drawings. Any roof-top deck railings, if proposed, should not be visible from the public way.
- (6) **Signs, Awnings, Canopies, Banners and Flags.** All signs, awnings, canopies, banners and flags for A, B and C Buildings shall meet the Standards and the design guidelines adopted for the City's facade rebate program, as well as other criteria established by DPD. All signage shall be pedestrian-scaled. No roof-top signs or projecting signs beyond any potential signage attached to the existing canopies shall be allowed. Signage shall not damage, obscure or cover windows or decorative elements or features. All existing (Goldblatt's) signage shall be removed. A master sign program shall be submitted for review and approval. New traditional retractable-type awnings with a woven-cloth fabric shall be installed on all ground-floor storefronts on all elevations of A Building, the Broadway elevations of B and C Buildings, and the Racine and Leland elevations of C Building to the extent there are active storefront windows and as required by DPD. A different awning placement, color and design is strongly encouraged for each building.
- (7) **Doors and Loading Dock Doors.** The design of entry doors and loading doors shall be subject to review and approval.
- (8) **Storefront Windows - Visual Transparency.** The window treatment and location/size of any display racks or other equipment in the first- and second-story commercial spaces of Buildings A, B and C shall maximize the areas for active window displays and/or views into the building. Windows in these areas shall not be blocked up, blacked out, or covered over, except as otherwise approved.

- (9) **Landscaping/Streetscape.** A landscaping and streetscape plan, identifying a scope of required work, shall be submitted for the review and approval of DPD.
- (10) **C Building.** The exterior design of C Building shall be subject to the review and approval of DPD.
- (11) **Other work.** The developer shall make best efforts as part of the Project to reuse the clock and to salvage and reuse the terra cotta medallions on the existing Plymouth Hotel building, to be demolished and replaced by C Building.

Covenant:

For the Term of the Agreement, all future exterior work including signs and any interior work which impacts the exterior appearance of the buildings or the display windows shall be subject to the prior review and approval of DPD. All such work shall meet the relevant terms and conditions of this Exhibit.

Final Draft 7/24/02

D

EXHIBIT D

TIF-Funded Improvements*

<u>Line Item</u>	<u>Cost</u>
Costs of studies, surveys, development of plans and other costs described in 65 ILCS 5/11-74.4-3(q) (1)	\$73,894
Property assembly costs, including, but not limited to the acquisition of land and other property, real or personal, or rights or interests therein; site preparation, site improvements that serve as an engineered barrier addressing ground level or below ground environmental contamination, including, but not limited to parking lots and other concrete or asphalt barriers, and the clearing and grading of land (65 ILCS 5/11-74.4-3(q) (2))	\$4,500,000
Costs of rehabilitation, reconstruction or repair or remodeling of existing public or private buildings, fixtures, and leasehold improvements (65 ILCS 5/11-74.4-3(q) (3))	\$5,500,000

Notwithstanding the above, in no event shall the City Funds payable under the Redevelopment Agreement exceed the limits set forth therein.

E

EXHIBIT E

Redevelopment Plan

[NOT ATTACHED FOR RECORDING PURPOSES]

F

EXHIBIT F

Construction Contract

[NOT ATTACHED FOR RECORDING PURPOSES]

G

EXHIBIT G-1
PROJECT BUDGET

Uses:

Acquisition Costs

Land	\$ 4,000,000
Extension Payments	40,000
Survey/Title/ Taxes/Appraisal/Filing Fees	92,000
Leland	1,250,000
Subtotal Acquisition Costs	5,382,000

Hard Costs

Site Development and Environmental	\$ 834,255
Hard	11,459,460
Retail Buildout	1,342,189
Contingency	352,200
Sub-Total Hard Costs	\$13,988,104

Soft Costs

Architectural/Engineering/Legal	\$ 935,300
Developer's Fee	500,000
Consultants	302,000
Administrative	40,000
Insurance	45,000
Construction Interest	1,082,026
Commissions	133,676
Loan Fees and Financing Cost	196,732
Marketing	163,086
Real Estate Taxes	140,000
Condo Assessments	12,000
Contingency/Rounding	119,076
Sub-Total Soft Costs	\$ 3,668,896

Total Uses: **\$23,039,000**

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EXHIBIT G 2

MBE/WBE PROJECT BUDGET

<u>Hard Costs</u>	
Site Development and Environmental	\$ 834,255
Hard*	9,989,460
Retail Build-out	1,342,189
Contingency**	<u>352,200</u>
Sub-Total Hard Costs	\$12,518,104
<u>Soft Costs</u>	
Architectural/Engineering	\$ 700,300
Contractor's's Fee	330,000
Contingency**	<u>119,076</u>
Sub-Total Soft Costs	\$ 1,149,376
Total	\$ 13,667,480

* Total Hard Cost	\$11,459,460
less Elevator costs	(\$210,000)
less Terra Cotta/FRP Materials costs	(\$450,000)
less Structural Steel costs	<u>(\$810,000)</u>
Total Hard Cost for MBE/WBE Budget	\$ 9,989,460

** To the extent that the contingencies are used, they will be included in the MBE/WBE budget

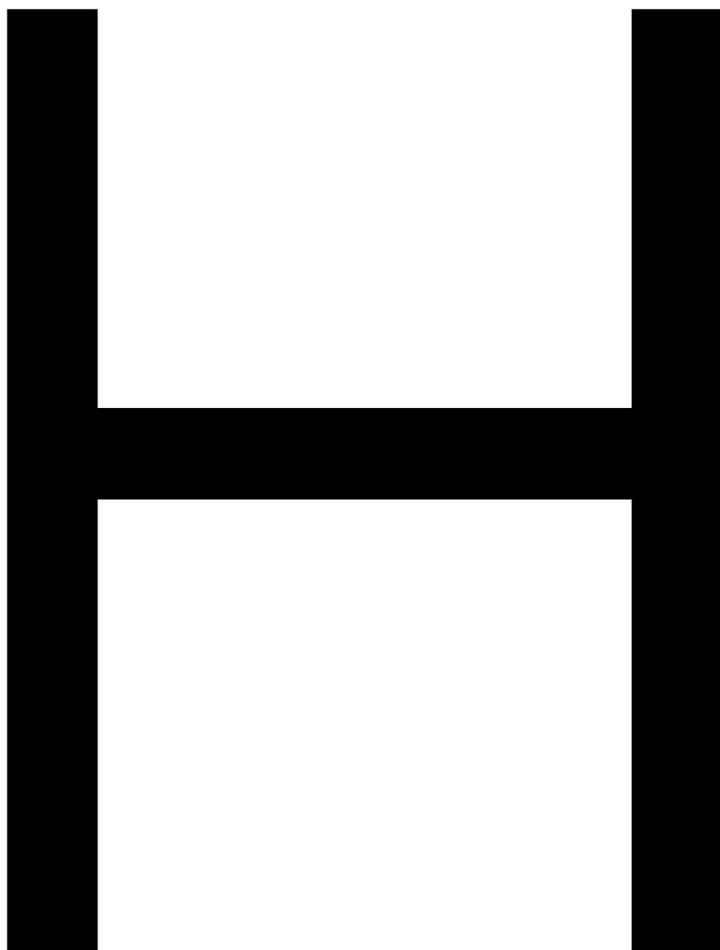


Exhibit H

Permitted Liens

1. ENCROACHMENT OF THE BUILDING LOCATED ON THE LAND ONTO THE SIDEWALK EAST OF AND ADJOINING THE LAND BY ABOUT 0.08 FEET AND ENCROACHMENT OF THE BUILDING LOCATED MAINLY ON THE LAND OVER AND ONTO THE PROPERTY WEST AND ADJOINING THE LAND BY 0.01 FEET AS DISCLOSED BY SURVEY NO. 4700A MADE BY CENTRAL SURVEY COMPANY, INC., DATED NOVEMBER 3, 2002.
2. PROCEEDING PENDING IN CIRCUIT COURT AS CASE NO. 01M1-404395 FILED OCTOBER 5, 2001 BY THE CITY OF CHICAGO AGAINST KENNETH GOLDBERG, LASALLE NATIONAL BANK AS TRUSTEE UNDER TRUST NO. 55532, KIMBERLY GOLDBERG, CHICAGO TILE AND TRUST COMPANY TRUST NO. 10833369, DEVON BANK, GOLDBLATT BROTHERS, INC. FOR BUILDING VIOLATION, RECEIVER AND DEMOLITION, ETC., NOTICE OF WHICH WAS RECORDED OCTOBER 5, 2001 AS DOCUMENT NO. 0010931590.
3. ENCROACHMENTS AS DISCLOSED BY SURVEY NO. 4700A MADE BY CENTRAL SURVEY COMPANY, INC., DATED NOVEMBER 3, 2002, INCLUDING: (a) ENCROACHMENT OF THE OVERHANGS ATTACHED TO THE BUILDING LOCATED MAINLY ON THE LAND OVER AND ONTO THE PROPERTIES EAST AND ADJOINING THE LAND, AND SOUTH AND ADJOINING THE LAND IN THEIR ENTIRETY; (b) ENCROACHMENT OF THE FENCE AND GATE ATTACHED TO THE BUILDING LOCATED MAINLY ON THE LAND OVER AND ONTO THE PROPERTY WEST AND ADJOINING THE LAND BY 0.62 FEET AND 0.54 FEET; (c) ENCROACHMENT OF THE SIGNS IN THEIR ENTIRETY OVER AND ONTO THE PROPERTY EAST AND ADJOINING THE LAND AND WEST AND ADJOINING THE LAND AND ENCROACHMENT OF THE BIKE STAND IN ITS ENTIRETY OVER AND ONTO THE PROPERTY EAST AND ADJOINING THE LAND; and (d) ENCROACHMENT OF THE OVERHEAD CANOPY ATTACHED TO THE BUILDING LOCATED MAINLY ON THE LAND OVER AND ONTO THE PROPERTY WEST AND ADJOINING THE LAND IN ITS ENTIRETY.
4. ENCROACHMENT OF THE ATTACHMENTS TO THE BUILDING LOCATED MAINLY ON THE LAND OVER AND ONTO THE PROPERTIES EAST, WEST AND SOUTH AND ADJOINING THE LAND, INCLUDING BUT NOT LIMITED TO SIAMESE CONNECTIONS AND GAS VALVES.
5. RIGHTS IN FAVOR OF PUBLIC AND/OR QUASI PUBLIC UTILITY COMPANIES, AND THE CITY IN AND TO THE VAULTS AND WALLS AS DEPICTED ON THE SITE PLAN MADE BY HARTSHORNE & PLUNKARD ARCHITECTURE , DATED MARCH 18,

2002, PROJECT NO. 0002

6. RIGHTS OF THE PARTIES IN AND TO THE UNDERGROUND OIL TANK ON PARCEL 2 OF THE LAND AS SHOWN ON THE PLANS AND SPECS MADE BY HARTSHORNE & PLUNKARD ARCHITECTURE, DATED MARCH 18, 2002, PROJECT NO. 0002.

7. UPTOWN GOLDBLATTS VENTURE LLC REDEVELOPMENT AGREEMENT DATED NOVEMBER _____, 2002 BY AND BETWEEN THE CITY OF CHICAGO AND UPTOWN GOLDBLATTS VENTURE LLC RECORDED NOVEMBER _____, 2002 AS DOCUMENT NO. _____ WITH THE COOK COUNTY RECORDER OF DEEDS.

8. MORTGAGE AND SECURITY AGREEMENT DATED NOVEMBER _____, 2002 BY UPTOWN GOLDBLATTS VENTURE LLC TO COLE TAYLOR BANK RECORDED NOVEMBER _____, 2002 AS DOCUMENT NO. _____ WITH THE COOK COUNTY RECORDER OF DEEDS.

9. ASSIGNMENT OF RENTS AND LEASES DATED NOVEMBER _____, 2002 BY UPTOWN GOLDBLATTS VENTURE LLC TO COLE TAYLOR BANK RECORDED NOVEMBER _____, 2002 AS DOCUMENT NO. _____ WITH THE COOK COUNTY RECORDER OF DEEDS.

10. SECURITY AGREEMENT AND COLLATERAL ASSIGNMENT OF REDEVELOPMENT DOCUMENTS DATED NOVEMBER _____, 2002 BY UPTOWN GOLDBLATTS VENTURE LLC TO COLE TAYLOR BANK RECORDED NOVEMBER _____, 2002 AS DOCUMENT NO. _____ WITH THE COOK COUNTY RECORDER OF DEEDS.

11. ASSUMPTION AND ASSIGNMENT AGREEMENT DATED NOVEMBER _____, 2002 BY AND BETWEEN COLE TAYLOR BANK AND THE CITY OF CHICAGO RECORDED NOVEMBER _____, 2002 AS DOCUMENT NO. _____ WITH THE COOK COUNTY RECORDER OF DEEDS.

12. SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT DATED NOVEMBER _____, 2002 BY UPTOWN GOLDBLATTS VENTURE LLC TO COLE TAYLOR BANK RECORDED NOVEMBER _____, 2002 AS DOCUMENT NO. _____ WITH THE COOK COUNTY RECORDER OF DEEDS.

13. SUBORDINATION AGREEMENT DATED NOVEMBER _____, 2002 BY UPTOWN GOLDBLATTS VENTURE LLC TO COLE TAYLOR BANK RECORDED NOVEMBER _____, 2002 AS DOCUMENT NO. _____ WITH THE COOK COUNTY REORDER OF DEEDS.

2002, PROJECT NO. 0002.

6 RIGHTS OF THE PARTIES IN AND TO THE UNDERGROUND OIL TANK ON PARCEL 2 OF THE LAND AS SHOWN ON THE PLANS AND SPECS MADE BY HARTSHORNE & PLUNKARD ARCHITECTURE, DATED MARCH 18, 2002, PROJECT NO. 0002.

7. UPTOWN GOLDBLATTS VENTURE LLC REDEVELOPMENT AGREEMENT DATED NOVEMBER _____, 2002 BY AND BETWEEN THE CITY OF CHICAGO AND UPTOWN GOLDBLATTS VENTURE LLC RECORDED NOVEMBER _____, 2002 AS DOCUMENT NO. _____ WITH THE COOK COUNTY RECORDER OF DEEDS.

8. MORTGAGE AND SECURITY AGREEMENT DATED NOVEMBER _____, 2002 BY UPTOWN GOLDBLATTS VENTURE LLC TO COLE TAYLOR BANK RECORDED NOVEMBER _____, 2002 AS DOCUMENT NO. _____ WITH THE COOK COUNTY RECORDER OF DEEDS.

9. ASSIGNMENT OF RENTS AND LEASES DATED NOVEMBER _____, 2002 BY UPTOWN GOLDBLATTS VENTURE LLC TO COLE TAYLOR BANK RECORDED NOVEMBER _____, 2002 AS DOCUMENT NO. _____ WITH THE COOK COUNTY RECORDER OF DEEDS.

10. SECURITY AGREEMENT AND COLLATERAL ASSIGNMENT OF REDEVELOPMENT DOCUMENTS DATED NOVEMBER _____, 2002 BY UPTOWN GOLDBLATTS VENTURE LLC TO COLE TAYLOR BANK RECORDED NOVEMBER _____, 2002 AS DOCUMENT NO. _____ WITH THE COOK COUNTY RECORDER OF DEEDS.

11. ASSUMPTION AND ASSIGNMENT AGREEMENT DATED NOVEMBER _____, 2002 BY AND BETWEEN COLE TAYLOR BANK AND THE CITY OF CHICAGO RECORDED NOVEMBER _____, 2002 AS DOCUMENT NO. _____ WITH THE COOK COUNTY RECORDER OF DEEDS.

12. SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT DATED NOVEMBER _____, 2002 BY UPTOWN GOLDBLATTS VENTURE LLC TO COLE TAYLOR BANK RECORDED NOVEMBER _____, 2002 AS DOCUMENT NO. _____ WITH THE COOK COUNTY RECORDER OF DEEDS.

13. SUBORDINATION AGREEMENT DATED NOVEMBER _____, 2002 BY UPTOWN GOLDBLATTS VENTURE LLC TO COLE TAYLOR BANK RECORDED NOVEMBER _____, 2002 AS DOCUMENT NO. _____ WITH THE COOK COUNTY REORDER OF DEEDS.

14. REDEVELOPMENT SUBORDINATION AGREEMENT DATED
NOVEMBER _____, 2002 BY AND BETWEEN THE CITY OF CHICAGO AND COLE
TAYLOR BANK RECORDED NOVEMBER _____, 2002 AS DOCUMENT
NO. _____ WITH THE COOK COUNTY RECORDER OF DEEDS.

15. JUNIOR CONSTRUCTION MORTGAGE DATED NOVEMBER ____, 2002 BY
UPTOWN GOLDBLATTS VENTURE LLC TO THE CITY OF CHICAGO RECORDED
NOVEMBER ____, 2002 AS DOCUMENT NO. _____ WITH THE COOK COUNTY
RECORDER OF DEEDS.



EXHIBIT I-1

Form of Project Area Note

[NOT ATTACHED FOR RECORDING PURPOSES]

EXHIBIT I-2

Form of Redevelopment Area Note

[NOT ATTACHED FOR RECORDING PURPOSES]

J

contained herein. [REPRESENTATION AND WARRANTY MAY BE LIMITED AS TO REDEVELOPMENT AREA NOTE IF QUALIFIED TRANSFER HAS OCCURRED]

2. No 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. [REPRESENTATION AND WARRANTY MAY BE LIMITED AS TO REDEVELOPMENT AREA NOTE IF QUALIFIED TRANSFER HAS OCCURRED]

All capitalized terms which are not defined herein has the meanings given such terms in the Agreement.

[Developer] [Registered Owner]

By: _____
Name
Title: _____

Subscribed and sworn before me this ____ day of _____
_____.

My commission expires: _____

Agreed and accepted:

Name
Title: _____
City of Chicago
Department of Planning and Development

EXHIBIT J-2

Requisition Form-Pay-As-You-Go Amounts

State of Illinois)
) SS
COUNTY OF COOK)

The affiant, Uptown Goldblatts Venture LLC, an Illinois limited liability company (the "Developer"), hereby certifies that with respect to that certain Uptown Goldblatts Venture LLC Redevelopment Agreement between the Developer and the City of Chicago dated _____, 200_ (the "Agreement"). Capitalized terms not defined herein shall have the meaning given in the Agreement:

A. This paragraph B sets forth and is a true and complete statement of all costs of TIF-Funded Improvements for the Project incurred to date, none of which have been previously counted in determining the principal balance of the Redevelopment Area Note:

\$ _____

B. The Affordable Condominium Close-Out Date [has not yet occurred] [occurred on _____, 200[___]].

[PROVIDE SUPPORTING DOCUMENTS IF CLOSE-OUT DATE HAS OCCURRED TO ESTABLISH SUCH OCCURRENCE]

C. The City has made the following previous payments with respect to the Affordable Condominium Subsidy Amount:

Date Amount

D. The amount shown below in this paragraph C is a true and complete calculation of the Affordable Condominium Subsidy Amount, as defined in the Redevelopment Agreement, as of the date hereof:

[PROVIDE CALCULATION, BASED ON ORIGINAL \$279,000/\$352,894, PLUS AMOUNTS ACCRUING AT PROJECT NOTE INTEREST RATE AFTER AFFORDABLE CONDOMINIUM CLOSE-OUT DATE, IF ANY, MINUS PREVIOUS CITY PAYMENTS]

E. The Developer requests reimbursement for the following cost of TIF-Funded Improvements:

\$ _____

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

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

1. The representations and warranties contained in the Redevelopment Agreement are true and correct and the Developer is in compliance with all applicable covenants contained herein.

2. No 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.

[Developer]

By: _____
Name
Title: _____

Subscribed and sworn before me this ____ day of _____
_____.

My commission expires: _____

Agreed and accepted:

Name
Title: _____
City of Chicago
Department of Planning and Development

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K

Exhibit K

Approved Prior Expenditures

None; all expenditures to be approved post-closing

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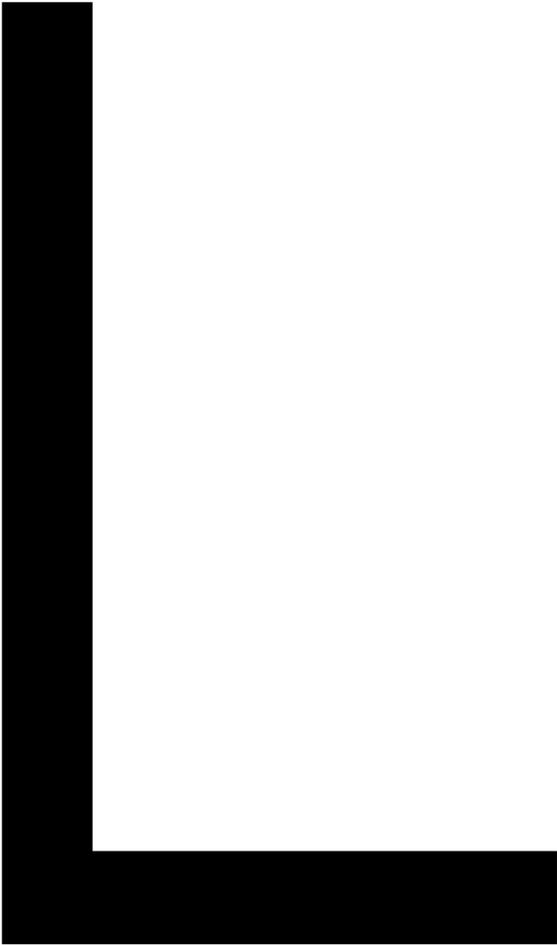


EXHIBIT L

Form of Legal Opinion

[NOT ATTACHED FOR RECORDING PURPOSES]

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M

Exhibit M

Form of City Mortgage

This instrument prepared by
and after recording return to:

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

**MORTGAGE, SECURITY AND RECAPTURE AGREEMENT,
INCLUDING RESTRICTIVE COVENANTS**

THIS MORTGAGE, SECURITY AND RECAPTURE AGREEMENT, INCLUDING RESTRICTIVE COVENANTS ("this Mortgage") is made as of this ___ day of _____, 200__ from _____ ("Mortgagor"), to the CITY OF CHICAGO, an Illinois municipal corporation, having its principal office at City Hall, 121 N. LaSalle Street, Chicago, Illinois 60602 (the "City" or "Mortgagee").

RECITALS

WHEREAS, the City Council of the City (the "City Council"), by ordinance adopted _____, 2002 and published in the Journal of Proceedings of the City Council for such date at pages _____ to _____, inclusive, has adopted guidelines for the use of tax increment financing funds by the City to promote the development of affordable housing in the City for low-income and very low-income households (the "TIF Affordability Guidelines"); and

WHEREAS, Mortgagor is on the date hereof purchasing from the Initial Seller (i) that certain real property legally described on Exhibit A attached hereto and a single family condominium unit located thereon, or (ii) that certain condominium unit as described on Exhibit A attached hereto (the property described on Exhibit A hereto is hereinafter referred to as the "Home") (certain terms used herein and not otherwise defined are defined

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on Exhibit B attached hereto); and

WHEREAS, Mortgagor is purchasing the Home for the Purchase Price, based on the Base Purchase Price plus upgrades, if any; and

WHEREAS, the City's TIF Contribution was conditioned upon, among other things, the requirement that the Home be subject to the Affordability Requirements that shall be imposed as encumbrances and as covenants running with the land; and

WHEREAS, the Affordability Requirements require that, among other things, with respect to the initial sale of the Home, with respect to which this Mortgage is being granted, and (unless Mortgagor is permitted and elects to repay to the City the City Subsidy Recapture Amount) with respect to each subsequent resale of the Home thereafter during the Recapture Period, such Home may be sold only to a Qualified Household at an Affordable Price; and

WHEREAS, Mortgagor's household is a Qualified Household and the Purchase Price is an Affordable Price; and

WHEREAS, Mortgagor acknowledges and agrees that the Base Purchase Price is less than the fair market price for the Home by an amount equal to the City Subsidy Amount, as evidenced by contemporaneous or projected sales of comparable units; and

WHEREAS, Mortgagor is able to purchase the Home for less than its fair market value because of the City's TIF Contribution [plus certain other City subsidy amounts], which have subsidized a portion of the construction costs of the Home, and because of the imposition of the Affordability Requirements pursuant to this Mortgage; and

WHEREAS, but for the City's TIF Contribution [and the other City subsidy amounts], and the City's imposition of the Affordability Requirements, Mortgagor would have been unable to purchase the Home for an Affordable Price; and

WHEREAS, the City has required Mortgagor to execute this Mortgage in order to both (a) impose the Affordability Requirements upon the Mortgaged Property and give notice of the Affordability Requirements to Mortgagor, to any subsequent purchaser of the Home, and to any lender having a mortgage secured by the Home, and (b) to secure the recapture payment described in Article III and Mortgagor's other obligations under this Mortgage; and

WHEREAS, in consideration of the City's TIF Contribution [and the other City subsidy amounts], the benefits accruing to

Mortgagor as a result of its purchase of the Home for an Affordable Price, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor has executed and delivered to the City this Mortgage;

NOW, THEREFORE, to secure the performance and observance by Mortgagor of all the terms, covenants and conditions described in this Mortgage, and in order to charge the properties, interests and rights hereinafter described with such consideration, Mortgagor has executed and delivered this Mortgage and does hereby grant, convey, assign, mortgage, grant a security interest in, and confirm unto Mortgagee and its successors and assigns forever, all of the following described property (which is hereinafter sometimes referred to as "Mortgaged Property"):

(A) The Home, and all easements, rights, interests and appurtenances thereto, including, without limitation, any deeded, reserved or assigned parking area or storage space and any interest in common elements and limited common elements;

(B) All structures and improvements of every nature whatsoever now or hereafter situated within or comprising a part of the Home, including, without limitation, all fixtures of every kind and nature whatsoever which are or shall be attached to said buildings, structures or improvements, and now or hereafter owned by Mortgagor, including all extensions, additions, improvements, betterments, renewals and replacements of any of the foregoing ("Improvements");

(C) All rents and issues of the Home and Improvements from time to time and all of the estate, right, title, interest, property, possession, claim and demand at law, as well as in equity of Mortgagor, in and to the same;

TO HAVE AND TO HOLD the Mortgaged Property and all parts thereof unto Mortgagee, its successors and assigns, to its own proper use, benefit and advantage forever, subject, however, to the terms, covenants and conditions herein;

WITHOUT limitation of the foregoing, Mortgagor hereby further grants unto Mortgagee, pursuant to the provisions of the Uniform Commercial Code of the State of Illinois, a security interest in all of the above-described property, which are or are to become fixtures.

THIS MORTGAGE IS GIVEN TO SECURE: (a) amounts which may become due and payable pursuant to this Mortgage, and (b) performance of each and every one of the other covenants, conditions and agreements contained in the this Mortgage, and in any other agreement, document or instrument to which reference is expressly made in the Mortgage.

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ARTICLE I

INCORPORATION OF RECITALS

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

ARTICLE II

COVENANTS, REPRESENTATIONS AND WARRANTIES

Mortgagor covenants and agrees with Mortgagee that at all times during the Recapture Period:

2.01 Taxes and Assessments. (a) Mortgagor will pay when due all general taxes and assessments (including, without limitation, any condominium or homeowner's association assessments, if applicable), special assessments, water charges and all of the charges against the Mortgaged Property and shall, upon written request, furnish to Mortgagee receipts evidencing payment thereof, provided that Mortgagor, in good faith and with reasonable diligence, may contest the validity or amount of any such taxes, assessments or charges, provided that during any such contest the enforcement of the lien of such taxes, assessments or charges is stayed.

(b) Mortgagor will not suffer (unless bonded or insured over) any mechanic's, laborer's, materialmen's, or statutory lien to remain outstanding upon any of the Mortgaged Property. Mortgagor may contest such lien, provided that Mortgagor shall first post a bond in the amount of the contested lien, or provide title insurance over such contested lien, and further provided that Mortgagor shall diligently prosecute the contested lien and cause the removal of the same.

2.02 Insurance. Mortgagor shall keep the Mortgaged Property continuously insured (or shall use reasonable efforts to cause the condominium or homeowner's association, as applicable, to keep insured such parts of the Mortgaged Property as may be required to be insured by such association under the applicable declaration) in such amounts and against such risks as required of Mortgagor by the Senior Lender, paying the premiums for said insurance as they become due. Policies of insurance shall name Mortgagee as an additional insured. All policies of insurance shall provide that the same shall not be canceled, except upon thirty (30) days prior written notice to Mortgagee.

2.03 Maintenance of the Property. (a) Mortgagor shall preserve and maintain the Mortgaged Property in good condition and repair, will not commit or suffer any waste thereof, and will keep the same in a clean, orderly and attractive condition. Mortgagor shall not do or suffer to be done anything which will increase the risk of fire or other hazard to the Mortgaged Property or any part thereof.

(b) If the Mortgaged Property or any part thereof is damaged by fire or any other cause, Mortgagor will immediately give written notice of the same to Mortgagee.

(c) Mortgagee or its representatives shall have the right to inspect the Mortgaged Property to assure compliance with the terms of this Mortgage.

(d) Mortgagor shall promptly comply, and cause the Mortgaged Property to comply, with all present and future laws, ordinances, orders, rules and regulations and other requirements of any governmental authority affecting the Mortgaged Property or any part thereof and with all instruments and documents of record or otherwise affecting the Mortgaged Property or any part thereof.

(e) If all or any part of the Mortgaged Property shall be damaged by fire or other casualty, Mortgagor (subject to the rights of the Board of Managers of the condominium or homeowner's association, if applicable, with respect to any proceeds applicable to common elements or limited common elements), will promptly restore the Mortgaged Property to the equivalent of its condition prior to the casualty, to the extent of any insurance proceeds made available to Mortgagor for that purpose.

2.04 Subordination. This Mortgage shall be subject and subordinate in all respects to the Senior Mortgage, if any, provided, however, that the maximum amount of indebtedness (including indebtedness attributable to protective advances made by the Senior Lender or other amounts secured under the terms of the Senior Mortgage) that shall be superior to the lien of this Mortgage shall in no instance and at no time exceed 100% of the Purchase Price plus the City Subsidy Amount. Any refinancing of the Senior Mortgage permitted under this Section 2.04, however, will also be deemed a Senior Mortgage for purposes of the subordination set forth in this Section 2.04.

2.05 Income Eligibility. Mortgagor represents and warrants to Mortgagee that Mortgagor's household income, as of the time of Mortgagor's execution of its purchase contract for the Mortgaged Property, met the income eligibility requirements established by the City applicable to a purchaser of the Home, as set forth in the definition of Qualified Household on Exhibit B hereto.

ARTICLE III

RECAPTURE OF CITY SUBSIDY PROVISIONS

3.01 Acknowledgment of City Subsidy. Mortgagor acknowledges and agrees that the City has subsidized a portion of the costs of construction of the Home in the amount of the City Subsidy Amount, resulting in Mortgagor's purchase of the Home at an Affordable Price.

3.02 Primary Residence; No Leasing. Mortgagor covenants to the City that during the Recapture Period, it shall own and use the Mortgaged Property as its primary residence (and the primary residence of Mortgagor's Qualified Household) as long as Mortgagor owns the Mortgaged Property. Mortgagor covenants that during the Recapture Period, it will not lease the Mortgaged Property to any person or let any other person to occupy or use the property without the prior written consent of the City, which shall be in the City's reasonable discretion, and which, if granted, will require that the total amount payable by any tenant household not exceed the amount set forth to qualify such housing as "affordable housing" as defined in the Illinois Affordable Housing Act, 310 ILCS 65/1 et seq.

3.03 Permitted Transfers. Mortgagor covenants that during the Recapture Period, it shall not sell or otherwise directly or indirectly transfer ownership of the Mortgaged Property, except (a) to a Qualified Household, (b) for an Affordable Price, and provided that (c) the Qualified Household executes a mortgage, security and recapture agreement in similar form to this Mortgage, if such resale Affordable Price is below the market price, as reasonably determined by the City's Department of Housing. Any transfer of ownership (x) resulting from Mortgagor's death and occurring pursuant to (i) the terms of a written land trust, personal trust or will, or (ii) state intestacy law, (y) to a spouse or member of Mortgagor's Qualified Household, or (z) that simply consists of Mortgagor's transfer of the Home into a land trust or personal trust of which Mortgagor is the sole beneficiary and holder of power of direction, as applicable, shall be subject to the foregoing transfer restriction, provided, however, that the transferee in any such transfer shall be bound by all of the affordable housing covenants contained in this Mortgage. If Mortgagor attempts or purports to transfer the Mortgaged Property to a transferee in violation of any one or more of the conditions in clauses (a), (b) and (c), such attempted or purported transfer shall be a violation of the Affordability Requirements, and shall constitute an immediate Event of Default under Section 4.01(a).

3.04 Right to Request Waiver or Modification. The Affordability Requirements in this Article III may be waived or modified in writing by the City, upon a showing of undue hardship or changed circumstances that would make the enforcement of such covenants inequitable or impractical, as determined by the City in its sole discretion.

3.05 Approval of Transfer and Release of Mortgage. Upon either (a) a permitted transfer described in Section 3.03, or (b) a transfer accompanied by a repayment of the City Subsidy Recapture Amount in accordance with the terms of this Mortgage, the City will, upon ten (10) business days prior written notice, execute and deliver a "Certificate of Transfer" confirming that such transfer is a permitted transfer hereunder and effective to deliver legal title to the transferee. In addition, within thirty (30) days of receipt of a written request from Mortgagor, Mortgagee shall execute a release of the Mortgage in recordable form.

3.06 REASONABLE RESTRAINT ON ALIENATION. MORTGAGOR ACKNOWLEDGES AND AGREES THAT TO THE EXTENT THE AFFORDABILITY REQUIREMENTS, ANYTHING IN THIS ARTICLE III, OR ANY OTHER PROVISION IN THIS MORTGAGE COULD BE DEEMED A RESTRAINT ON ALIENATION, THAT ANY SUCH RESTRAINT (A) IS REASONABLE, (B) IS, AS EXPLAINED IN THE RECITALS, SUPPORTED BY ADEQUATE CONSIDERATION, (C) IS NECESSARY TO IMPLEMENT THE CITY'S PUBLIC POLICY OBJECTIVE OF DEVELOPING AND MAINTAINING LOW-INCOME AND VERY LOW-INCOME HOUSING, (D) SHOULD BE ENFORCED AS WRITTEN, AND (E) WAS A MATERIAL INDUCEMENT TO THE CITY'S INITIAL DECISION TO PROVIDE THE TIP CONTRIBUTION, WHICH HAS ENABLED MORTGAGOR TO BUY THE HOME FOR THE PURCHASE PRICE, WHICH IS MATERIALLY BELOW THE FAIR MARKET VALUE PRICE. MORTGAGOR, THEREFORE, KNOWINGLY AND VOLUNTARILY, TO THE FULLEST EXTENT PERMITTED BY LAW, WAIVES THE RIGHT TO RAISE ANY DEFENSE TO THE ENFORCEMENT OF THE AFFORDABILITY REQUIREMENTS, WHETHER AT LAW OR IN EQUITY.

ARTICLE IV

DEFAULT

4.01 Events of Default. The terms "Event of Default" or "Events of Default", wherever used in the Mortgage, shall mean any one or more of the following events:

- (a) A failure by Mortgagor to comply with any of the

Affordability Requirements set forth in under Section 3.02 or 3.03;

(b) Failure by Mortgagor to duly observe or perform any other material term, covenant, condition, or agreement in the Mortgage after the expiration of the applicable cure periods provided in Section 4.02; or

(c) A default continuing beyond all applicable cure periods under the Senior Mortgage and permitting foreclosure thereunder.

4.02 City Remedies. The City shall have the following remedies depending on the nature and timing of the Event of Default.

(a) Recapture Payment Event. If an Event of Default occurs under Section 4.01(a) prior to the Recapture Period expiration, any purported lease, direct or indirect sale or transfer of ownership, or mortgaging of the Mortgaged Property shall make the City entitled to the specific enforcement of the Affordability Requirements and any other remedies available under this Mortgage. The City, in its sole discretion, and in lieu of its specific enforcement of the Affordability Requirements, may elect to require payment of the City Subsidy Recapture Amount (as defined below) in the event that the City determines that specific enforcement of the Affordability Requirements is impractical or inappropriate. If Mortgagor pays to the City the City Subsidy Recapture Amount, then the City shall have no other remedy with respect to such Event of Default and shall be obligated to execute and deliver a release of this Mortgage in recordable form and the transferee shall not be bound by any Affordability Requirements or otherwise required to execute and deliver any mortgage in favor of the City.

The "City Subsidy Recapture Amount" shall be an amount equal to the City Subsidy Amount plus simple, non-compounding interest on such amount at the rate of _____ percent (___%) [ENTER INTEREST RATE, IF ANY, NOT TO EXCEED FIVE (5%), FOR THIS SPECIFIC PROJECT] per annum (assuming twelve 30 day months) calculated from the date of this Mortgage to the date of the Recapture Payment Event.

For example, assuming an interest rate of 3%, if (a) this Mortgage was dated January 1, 2002, (b) the date of the Recapture Payment Event was July 1, 2008, and (c) the City Subsidy Amount was \$20,000, then (i) the interest on the City Subsidy Amount would be \$3,900 (\$600/year for 6 years, plus \$300 for one half-year), and (ii) the City Subsidy Recapture Amount would be \$23,900 (\$20,000 plus \$3,900).]

(b) If an Event of Default occurs under Section 4.02 or

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Section 4.03 and such default involves a failure to make timely payment of any amount due and secured by this Mortgage or the Senior Mortgage and such failure is not cured within ten (10) days of the Mortgagee's delivery of written notice of such failure to Mortgagor (a "Monetary Event of Default"), then Mortgagee shall be entitled to immediately: (i) declare the City Subsidy Recapture Amount immediately due and payable (with such Monetary Event of Default date being also being deemed a Recapture Payment Event for purposes of computing such amount); and (ii) exercise any other remedies available under this Mortgage (including, without limitation, specific enforcement of the Affordability Requirements any time prior to the end of the Recapture Period of this Mortgage), in either instance without further notice or demand.

(c) If Mortgagor fails to perform any other obligation required under this Mortgage not described in Section 4.02 and such failure is not cured within sixty (60) days of the Mortgagee's delivery of written notice of such failure to Mortgagor, Mortgagee shall be entitled to immediately: (i) declare the City Subsidy Recapture Amount immediately due and payable (with such non-monetary Event of Default date being also being deemed a Recapture Payment Event for purposes of computing such amount); and (ii) exercise any other remedies available under this Mortgage (including, without limitation, specific enforcement of the Affordability Requirements any time prior to the end of the Recapture Period of this Mortgage), in either instance without further notice or demand. In the event such default cannot reasonably be cured within such sixty (60) day period, however, and if Mortgagor has commenced efforts to cure such default, then the time to cure shall be extended so long as said party diligently continues to cure such default.

(d) If an event of default occurs under the Senior Lender's security documents (after the giving of any applicable notice and lapse of any applicable cure period, if any) and the Senior Lender commences efforts to foreclose its mortgage (or obtain a deed-in-lieu-of-foreclosure), obtain appointment of a receiver for the Mortgaged Property, or obtain possession of the Mortgaged Property, such event of default shall (notwithstanding anything in this Section 4.02 to the contrary) constitute an immediate Event of Default under this Mortgage and the Mortgagee shall be entitled to immediately: (i) declare the City Subsidy Recapture Amount immediately due and payable (with such commencement date being also deemed a Recapture Payment Event for purposes of computing the City Subsidy Recapture Amount); and (ii) exercise any other remedies available under this Mortgage, in either instance without further notice or demand.

4.03 Other Remedies. (a) If any amounts due under and secured by this Mortgage shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to

foreclose the lien hereof for such indebtedness or part thereof. This Mortgage and the right of foreclosure hereunder shall not be impaired or exhausted by any foreclosure of the Senior Mortgage, and may be foreclosed successively and in parts, until all of the Mortgaged Property has been foreclosed against. In any such foreclosure, or upon the enforcement of any other remedy of Mortgagee, there shall be allowed and included as additional indebtedness all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs involved in title insurance and title examinations. All expenditures and expenses of the nature in this Section 4.03 mentioned, and such expenses and fees as may be incurred in the protection of the Mortgaged Property and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by Mortgagee in any litigation or proceeding affecting this Mortgage, or the Mortgaged Property, including probate and bankruptcy proceedings, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Mortgagor, with interest thereon at the lesser of the highest rate permitted by law or fifteen percent (15%) per annum, and shall be secured by this Mortgage. The proceeds of any foreclosure sale of the Mortgaged Property shall be distributed and applied in the following order of priority: (i) on account of all costs and expenses incidental to the foreclosure proceedings, including all such items as are mentioned in this section; (ii) repayment of the indebtedness owed to the Senior Lender, subject to the limitation in Section 2.04; (iii) repayment of any other amounts due under this Mortgage; and (iv) payment of any remaining amounts due to Mortgagor, its successors or assigns, as their rights may appear.

(b) Mortgagor shall not and will not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws", now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. Mortgagor, for itself and all who may claim through or under it, waives any and all right to have the property and estates comprising the Mortgaged Property marshaled upon any foreclosure of the lien hereof, and agrees that any court having jurisdiction to foreclose such lien may order the Mortgaged Property sold as an entirety. To the extent permitted by law, Mortgagor hereby waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage on such Mortgagor's behalf and on behalf of each and every person, except decree or judgment creditors of Mortgagor, acquiring any interest in or title to the Mortgaged Property subsequent to the date of this Mortgage.

(c) Upon any other entering upon or taking of possession of the Mortgaged Property after the occurrence of an Event of Default and the expiration of the applicable cure period and other than by means of a foreclosure, Mortgagee, subject to the rights of the Senior Lender, may hold, use, manage and control the Mortgaged Property and, from time to time (i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personalty and other property required in connection therewith; (ii) insure or keep the Mortgaged Property insured; (iii) manage the Mortgaged Property and exercise all the rights and powers of Mortgagor to the same extent as Mortgagor could in its own name or otherwise with respect to the same; and (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted to Mortgagee, all as Mortgagee from time to time may reasonably determine to be to its best advantage. Mortgagee may collect and receive all the rents, issues, profits and revenues of the same, including those past due as well as those accruing thereafter, and, after deducting to the extent reasonable: (aa) expenses of taking, holding and managing the Mortgaged Property (including compensation for the services of all persons employed for such purposes); (bb) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements and purchases and acquisitions; (cc) the cost of such insurance; (dd) such taxes, assessments and other similar charges as Mortgagee may determine to pay; (ee) other proper charges upon the Mortgaged Property or any part thereof; and (ff) the reasonable compensation, expenses and disbursements of the attorneys and agents of Mortgagee, shall apply the remainder to the payment of amounts due under this Mortgage. The balance of such funds, if any, after payment in full, of all of the aforesaid amounts shall be paid to Mortgagor.

(d) Mortgagee may also seek specific performance or injunctive relief in order to enforce the provisions of this Mortgage.

4.04 Receiver. Subject to the rights of the Senior Lender, if an Event of Default shall have occurred and be continuing after an applicable cure period has expired, Mortgagee, upon application to a court of competent jurisdiction, shall be entitled to the appointment of a receiver to take possession of and to operate the Mortgaged Property and to collect and apply the rents, issues, profits and revenues thereof. The receiver shall otherwise have all of the rights and powers to the fullest extent permitted by law.

4.05 Purchase by Mortgagee. Upon any foreclosure sale, Mortgagee may bid for and purchase the Mortgaged Property and shall be entitled to apply all or any part the City Subsidy Recapture Amount and other amounts due under and secured by this

Mortgage as a credit to the purchase price.

4.06 Remedies Cumulative. No right, power or remedy conferred upon or reserved to Mortgagee by this Mortgage is intended to be exclusive of any other right, power or remedy, but each and every right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law, in equity or by statute.

4.07 Waiver. No delay or omission of Mortgagee to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein; and every right, power and remedy given by this Mortgage to Mortgagee may be exercised from time to time as often as may be deemed expedient by Mortgagee. No consent or waiver, expressed or implied, by Mortgagee to or of any breach or Event of Default by Mortgagor in the performance of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or Event of Default in the performance of the same or any other obligations of Mortgagor hereunder. Failure on the part of Mortgagee to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Mortgagee of its rights hereunder or impair any rights, powers or remedies on account of any breach or default by Mortgagor.

ARTICLE V

MISCELLANEOUS PROVISIONS

5.01 Successors and Assigns This Mortgage shall inure to the benefit of and be binding upon Mortgagor and Mortgagee and their respective legal representatives, successors and assigns. Whenever a reference is made in this Mortgage to Mortgagor or to Mortgagee, such reference shall be deemed to include a reference to legal representatives, successors and assigns of Mortgagor or Mortgagee, as applicable.

5.02 Terminology. All personal pronouns used in this Mortgage, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles and sections are for convenience only and neither limit nor amplify the provisions of this Mortgage, and all references herein to articles, sections or paragraphs shall refer to the corresponding articles, sections or paragraphs of this Mortgage unless specific reference is made to such articles, sections or paragraphs of another document or instrument.

5.03 Severability. If any provision of this Mortgage or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Mortgage and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the extent permitted by law.

5.04 Security Agreement. This Mortgage shall be construed as a "Security Agreement" within the meaning of and shall create a security interest under the Uniform Commercial Code as adopted by the State of Illinois with respect to any part of the Mortgaged Property which constitutes fixtures. Mortgagee shall have all the rights with respect to such fixtures afforded to it by said Uniform Commercial Code in addition to, but not in limitation of, the other rights afforded Mortgagee by this Mortgage or any other agreement.

5.05 Modification. No change, amendment, modification, cancellation or discharge hereof, or of any part hereof, shall be valid unless in writing and signed by the parties hereto or their respective successors and assigns. Mortgagor shall have no right to convey the Home into a land trust without obtaining the prior written consent of the City.

5.06 No Merger. It being the desire and intention of the parties that this Mortgage and the lien hereof do not merge in fee simple title to the Mortgaged Property, it is hereby understood and agreed that should Mortgagee acquire any additional or other interests in or to said property or the ownership thereof, then, unless a contrary interest is manifested by Mortgagee as evidenced by an appropriate document duly recorded, this Mortgage and the lien hereof shall not merge in the fee simple title, toward the end that this Mortgage may be foreclosed as if owned by a stranger to the fee simple title.

5.07 Applicable Law. This Mortgage shall be interpreted, construed and enforced under the laws of the State of Illinois, without regard to its conflict of laws principles.

5.08 Administration. All consents, approvals, modifications, waivers, adjustments or other actions of the City described herein shall be made in writing by the City, acting through its Department of Housing, or any successor department thereto. All notices, requests, or other communications to the City hereunder shall be made to the Department of Housing at the following address: _____,
Attention: _____.

IN WITNESS WHEREOF, the undersigned has caused this Mortgage to be executed as of the day and year first above written.

MORTGAGOR(S):

STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, _____, a Notary Public in and for
said County, in the State aforesaid, do hereby certify that
_____ to me as the same person whose name is
subscribed to the foregoing instrument, appeared before me this
day in person and being first duly sworn by me acknowledged that
she signed and delivered the said instrument as her free and
voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this ____ day of
_____, 200__.

Notary Public

My commission expires _____.

Exhibit A to Attachment 1 (Form of Recapture Mortgage)

Legal Description

Exhibit B to Attachment 1
(Form of Recapture Mortgage)

Definitions

"Affordability Requirements" shall mean the affordability requirements contained in Sections 3.02 and 3.03 hereof.

"Affordable Price" shall mean an amount less than or equal to the price at which Monthly Homeownership Costs for the Home would total not more than 40% of household income for a household with a family size equal to the product of 2 multiplied by the number of bedrooms in the Home whose income is the maximum amount allowable for such household to be a Qualified Household.

"Base Purchase Price" shall mean _____, being the amount of the Purchase Price exclusive of upgrades.

"City Subsidy Amount" shall mean \$ _____, constituting the difference between the market value of the Home at the time of its initial purchase (based on appraisals, comparable sales or similar evidence as shall be acceptable to the Department of Housing) and the Base Purchase Price.

"City Subsidy Recapture Amount" shall have the meaning set forth in Section 4.02 hereof.

"Closing Date" shall mean the date of execution of this Mortgage.

"Home" shall have the meaning set forth in the recitals hereto.

"Initial Seller" shall mean _____.

"Monthly Homeownership Costs" shall mean the sum of the following estimated amounts:

- (i) monthly principal and interest payments on a 30-year fixed rate purchase money mortgage in the amount of 95% of the purchase price, bearing interest at a rate equal to the prevailing rate as published in the Chicago Tribune (or posted on the internet website maintained by the Chicago Tribune) as of the date of calculation of Monthly Homeownership Costs, rounded up to the nearest 1/4,

- (ii) annual estimated real property taxes, divided by 12,
- (iii) annual insurance premiums, divided by 12, for homeowners' insurance in the amount of the replacement value of the Home, and
- (iv) monthly condominium assessment payments or similar homeowner's association payments, if applicable.

"Purchase Price" shall mean \$_____, being the sum of the Base Purchase Price plus upgrades.

"Recapture Period" shall mean for the period commencing on the Closing Date and ending upon the 30th anniversary of the Closing Date.

"Qualified Household" shall mean a single person, family or unrelated persons living together whose adjusted income is not more than 80% of the Chicago-area median income, adjusted for family size, as such adjusted income and Chicago-area median income are determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937. As of the Closing Date, such income limitations are as follows:

<u># of Persons In Household</u>	<u>80% of AMI</u>
1	\$
2	\$
3	\$
4	\$
5	\$
6	\$

"Senior Lender" shall mean _____, being the mortgagee under the Senior Mortgage.

"Senior Mortgage" shall mean that certain mortgage dated as of _____, between Mortgagor and the Senior Lender, recorded with the Office of the Recorder of Deeds of Cook County, Illinois on _____ as document # _____ to secure indebtedness in the original principal amount of \$_____.

"TIF Contribution" shall mean a contribution by the City of tax increment financing funds towards payment of a portion of the construction costs of the Home.

N

EXHIBIT N

Public Benefits Program

Developer will work with the City, Developer's Tenants, Other Developers, Local Community Organizations to support and to improve the physical, social, cultural and other environments in the Greater Uptown Community and within the immediate vicinity of the Uptown Square Redevelopment Project site at Lawrence Avenue and Broadway.

Support to the Leland Apartments Project at Leland and Racine Avenues

Developer will donate funds to the Leland Apartments Redevelopment Project in the amount of \$1.25M. These funds may be from Developer's cash resources or may be borrowed by Developer from a lending institution of Developer's choice with Developer paying the debt service (principal and interest). These funds will be placed in an escrow account for use in the redevelopment of Leland Apartments by the Leland Apartments owner/developer in accordance with agreements to be established between Leland Apartments Developer and the City, all in accord with the provisions of this Redevelopment Agreement.

Developer will structure the support to Leland Apartments Project and cooperate with the Leland Apartments Developer to ensure that the donation qualifies as donation under the State's affordable housing donation tax credit program and that the Leland Apartments Project receives 100% of whatever proceeds can be realized from the transfer to and sale by Leland Apartments Developer of the state tax credits.

Border's Books & Music: Community Support, Charitable Contributions, and Employment Opportunities

The Uptown Square Store will be the fifth Borders store in Chicago: the other four locations are Lincoln Park, Beverly, Michigan Avenue and State Street. In each location, Borders Books & Music is already working closely with local communities in Chicago to support schools, businesses, cultural and community institutions through sponsorships, partnerships and mutually beneficial promotional activities.

In addition, only half of the Borders inventory is common to all its stores, the other half is customized to the local neighborhood and community market. This practice extends through all of its departments in each store.