



Doc#: 1235544079 Fee: \$66.00
Karen A. Yarbrough RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 12/20/2012 03:40 PM Pg: 1 of 15

This agreement was prepared by
and after recording return to:
Randall L. Johnson
City of Chicago Law Department
121 North LaSalle Street, Room 600
Chicago, IL 60602

AMENDMENT TO TOWNSEND CHICAGO, LLC REDEVELOPMENT AGREEMENT

This Amendment (the "Amendment") to the Townsend Chicago, LLC Redevelopment Agreement is made as of December 12, 2012, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Housing and Economic Development ("HED"), and Townsend Chicago, LLC, a Delaware limited liability company ("Developer").

RECITALS

A. The Townsend Chicago, LLC Redevelopment Agreement (the "Agreement") was entered into by and between the City, acting through its Department of Planning and Development, which was one of the predecessors to HED, and the Developer as of January 31, 2006 and then recorded in the land title records of Cook County, Illinois on February 2, 2006 as document no. 0603343326.

B. The Developer and the City desire to change the amount and structure of City Funds to be received pursuant to the Agreement and the terms pursuant to which the City Funds will be delivered as follows: (i) change the City Notes by issuing new City Note(s) in place of the existing City Notes as follows: (A) issue a new City Note A (the tax-exempt note) in the reduced amount of up to \$6,200,000 (as opposed to the original amount of \$8,850,000); (B) change the interest rate on City Note A to an annual rate equal to the median value of the Baa (municipal market data) G.O. Bond rate (20 year) as published by Thompson-Reuters Municipal Market Data ("MMD") for the 15 business days prior to the date of issuance of the City Note A plus 250 basis points, but in no event exceeding eight percent (8%); (C) issue a new City Note B (the taxable note) in the reduced amount to \$2,324,000, or if City Note A is less than \$6,200,000 then the difference between \$8,524,000 and the amount of City Note A (as opposed to the original amount of \$4,550,000) for a new cumulative total of City Notes in the amount of \$8,524,000 (as opposed to the original cumulative amount \$13,400,000); (D) change the interest rate on City Note B to an annual rate equal to the median value of the Corporate BBB Bond Index Rate (20-year) as published by Bloomberg on the last business day prior to the date of issuance of City Note B plus 175 basis points, but in no event exceeding eight and a half percent (8.5%); (ii) provide that the City shall use all or a portion of the current existing Available Incremental Taxes now in the 35th & State Special TIF Allocation Fund to make an initial payment (the "Initial Payment") to the Developer of Two Million Forty Seven Thousand Five Hundred Ninety Nine and 18/100 Dollars (\$2,047,599.18); and (iii) provide for any Available Incremental Taxes that are in excess of those amounts necessary to make payments on the City Notes (the "Pay-As-You Go Funds") to be paid to Developer on a pay-as-you go basis in an amount not to exceed the difference between (i) the new cumulative total of the City Notes (i.e. \$8,524,000), plus the Initial Payment (\$2,047,599.18) and (ii) the original cumulative total of the City Notes (i.e. \$13,400,000), which is now a total of \$2,828,400.82 (the "Pay-As-You Go Payment Maximum Amount").

C. The parties hereto have agreed to enter into this Amendment.

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 Amendment by reference.

SECTION 2. AMENDMENTS

2.01 Definitions:

The following definitions in the Agreement shall be deleted:

“City Funds” shall mean the funds paid to the Developer pursuant to the City Notes.

“City Note A” shall mean the City of Chicago Tax Increment Allocation Revenue Note (35th/State Redevelopment Project) Series A, to be in the form attached hereto as Exhibit M-1, in the maximum principal amount of \$8,850,000, issued by the City to the Developer on the date of issuance of the Certificate. The City Note A shall bear interest at the City Note A Interest Rate and shall not provide for accrued, but unpaid, interest to bear interest at the same annual rate.

“City Note A Interest Rate” shall mean an annual rate equal to the median rate of a 10-year U.S. Treasury bond as published by Bloomberg for the 15 business days prior to the date of issuance of the City Note A plus 275 basis points, but in no event exceeding seven and a half percent (7.5%).

“City Note B” shall mean the City of Chicago Tax Increment Allocation Revenue Note (35th/State Redevelopment Project), Taxable Series B, to be in the form attached hereto as Exhibit M-2, in the maximum principal amount of \$4,550,000, issued by the City to the Developer on the date of issuance of the Certificate. The City Note B shall bear interest at the City Note B Interest Rate and shall not provide for accrued, but unpaid, interest to bear interest at the same annual rate.

“City Note B Interest Rate” shall mean an annual rate equal to the median rate of a 20-year U.S. Treasury bond as published by Bloomberg for the 15 business days prior to the date of issuance of the City Note B plus 375 basis points, but in no event exceeding eight and a half percent (8.5%).

“City Notes” shall mean City Note A and City Note B.

The deleted definitions above shall be replaced with the definitions set forth below:

“City Funds” shall mean the funds paid to the Developer pursuant to (i) the Initial Payment, (ii) the City Notes and (iii) excess Available Incremental Taxes paid to Developer up to the Pay-as-You Go Payment Maximum Amount.

“City Note A” shall mean the tax-exempt City of Chicago Tax Increment Allocation Revenue Note (35th/State Redevelopment Project) Series A, to be in the form attached hereto as Exhibit M-1, in the maximum principal amount of \$6,200,000 issued by the City to the Developer on the date of issuance of the Certificate. The City Note A shall bear interest at the City Note A Interest Rate and shall not provide for accrued, but unpaid, interest to bear interest at the same annual rate. Up until ten (10) business days prior to the issuance of the Certificate, Developer shall have the right to notify the City that it wishes to have the amount of City Note A established as an amount less

than \$6,200,000.

“City Note A Interest Rate” shall mean an annual rate equal to the median value of the Baa (municipal market data) G.O. Bond rate (20 year) as published by Thompson-Reuters Municipal Market Data (“MMD”) for the 15 business days prior to the date of issuance of the City Note A plus 250 basis points, but in no event exceeding eight percent (8%).

“City Note B” shall mean the taxable City of Chicago Tax Increment Allocation Revenue Note (35th/State Redevelopment Project), Taxable Series B, to be in the form attached hereto as Exhibit M-2, in the maximum principal amount of \$2,324,000 (or in the event City Note A is established as less than \$6,200,000 then City Note B shall be increased by the same amount so that the maximum principal amount of the City Notes is \$8,524,000), issued by the City to the Developer on the date of issuance of the Certificate. The City Note B shall bear interest at the City Note B Interest Rate and shall not provide for accrued, but unpaid, interest to bear interest at the same annual rate.

“City Note B Interest Rate” shall mean an annual rate equal to the median value of the Corporate BBB Bond Index Rate (20-year) as published by Bloomberg on the last business day prior to the date of issuance of City Note B plus 175 basis points, but in no event exceeding eight and a half percent (8.5%).

“City Notes” shall mean City Note A and City Note B which shall have a maximum principal amount of eight million five hundred twenty four thousand and no/100 dollars (\$8,524,000). In the event that Developer establishes the maximum principal amount of City Note A at less than \$6,200,000 (as allowed in the definition of City Note A) then the maximum principal amount of City Note B shall be increased by the same amount (as set forth in the definition of City Note B) so that the maximum cumulative amount of the City Notes remains \$8,524,000.

The following definitions shall be added to the Agreement:

“Annual Compliance Report” shall mean a signed report from the Developer to the City (a) itemizing each of the Developer’s obligations under the RDA during the preceding calendar year, (b) certifying the Developer’s compliance or noncompliance with such obligations, (c) attaching evidence (whether or not previously submitted to the City) of such compliance or noncompliance and (d) certifying that the Developer is not in default with respect to any provision of the RDA, the agreements evidencing the Lender Financing, if any, or any related agreements; provided, that the obligations to be covered by the Annual Compliance Report shall include the following: (1) compliance with the covenant to maintain Average Minimum Occupancy and to demonstrate such compliance by delivering an Occupancy Report (**Section 8.06**); (2) compliance with the covenant to allow only permitted uses on the Property (**Section 8.06**); (3) compliance with the covenant to deliver an annual Jobs Report (**Section 8.06**); (3) delivery of Financial Statements and unaudited financial statements (**Section 8.13**); (4) delivery of

updated insurance certificates, if applicable (**Section 8.14**); (5) delivery of evidence of payment of Non-Governmental Charges, if applicable (**Section 8.15**); and (6) compliance with all other executory provisions of the RDA.

“Annual Jobs Report” shall have the meaning set forth in Section 8.06.

“Initial Payment” shall have the meaning set forth in Recital B.

“Jobs Report” shall have the meaning set forth in Section 7.01 (a) (ii).

“Pay-As-You Go Funds” shall have the meaning set forth in Recital B.

“Pay-as-You Go Payment Maximum Amount” shall have the meaning set forth in Recital B of this Amendment.

2.02 Revisions to Terms in the Agreement.

(A.) The introductory sentence to the Agreement currently refers to “the City of Chicago, an Illinois municipal corporation (the “City”), through its Department of Planning and Development (“DPD”),...”. The reference quoted above is hereby deleted and changed to “the City of Chicago, an Illinois municipal corporation (the “City”), through its Department of Housing and Economic Development (“HED”) as successor to the Department of Planning and Development.

(B.) All references to the “Department of Planning and Development” shall be changed to the “Department of Housing and Economic Development, as successor to the Department of Planning and Development”.

(C.) All references to “DPD” shall be changed to “HED”

(D.) The following sentence shall be inserted immediately prior to the last sentence of Recital D: Though the Developer does not covenant to create any permanent jobs at the Facility, the Developer does expect that approximately two hundred forty (240) permanent jobs will be created and maintained at the Facility.

(E.) Section 7.01 (a) (ii) currently reads as follows:

The City's Monitoring and Compliance Unit has verified that the Developer is in full compliance with City requirements set forth in Section 10 and Section 8.08 (MWBE, City Residency and Prevailing Wage) with respect to construction of the Project; and

The language of Section 7.01(a) (ii) quoted above shall be deleted and the following language shall be inserted in its place:

Regarding employment matters (A) The City's Monitoring and Compliance Unit has verified that the Developer is in full compliance with City requirements set forth in Section 10 and Section 8.08 (M/WBE, City Residency and Prevailing Wage) with respect to construction of the Project and (B) The Developer has submitted a report (the "Jobs Report") setting forth the number of jobs created at the Facility as of December 31, 2011 or any date thereafter but prior to the issuance of the Certificate.

(F.) The following sentence shall be inserted immediately prior to the last sentence of Section 8.06: Developer shall deliver a Jobs Report annually (the "Annual Jobs Report") in order to report to the City the monthly average number of jobs maintained at the Facility for each year during the Compliance Period.

(G.) The first sentence of Section 15.02 currently reads as follows:

Upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements, except for City Note A, may suspend disbursement of City Note B funds and/or suspend the accrual of interest on City Note B.

The language referenced above is hereby deleted and replaced with the following sentence:

Upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements, except for City Note A, may suspend disbursement of City Note B funds, may suspend disbursement of Pay-As-You-Go Funds and/or suspend the accrual of interest on City Note B.

2.03 Changes to Amount and Manner of Disbursing City Funds.

(A.) The first sentence of Section 4.03(b) currently reads as follows:

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 after issuance of a Certificate to issue the City Notes to the Developer.

The first sentence of Section 4.03(b) quoted above shall be deleted and the following sentence shall be inserted in its place:

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 (i) that upon issuance of the Certificate it shall make the Initial Payment to the Developer and (ii) upon issuance of the Certificate, to issue the City Notes to the Developer.

(B.) The last sentence of Section 4.03(b) currently reads as follows:

“The total of City Funds shall be an amount not to exceed the lesser of Thirteen Million Four Hundred Thousand Dollars (\$13,400,000) or 25.6% of the Actual Project Costs; provided, however, that payments of City Funds pursuant to the City Notes are subject to the amount of Available Incremental Taxes deposited into 35th/State TIF Fund being sufficient for such payments.”

The last sentence of Section 4.03(b) quoted above shall be deleted and the following sentence shall be inserted in its place:

The total of City Funds (including the Pay-as-You Go Payment Maximum Amount) shall be an amount not to exceed \$13,400,000 or 25.6% of the Actual Project Costs; provided, however, that payments of City Funds including payment (a) of the Initial Payment, (b) on the City Notes and (c) toward the Pay-as-You Go Payment Maximum Amount are subject to the amount of Available Incremental Taxes deposited into 35th/State TIF Fund being sufficient for such payments.

(C.) The second and third sentences of Section 4.03(c) currently read as follows:

“The maximum principal amount of the City Note A shall be an amount not to exceed Eight Million Eight Hundred Fifty Thousand Dollars (\$8,850,000) and the maximum principal amount of the City Note B shall be an amount not to exceed Four Million Five Hundred Fifty Thousand Dollars (\$4,550,000).”

The second and third sentences of Section 4.03(c) quoted above shall be deleted and the following sentences shall be inserted in their place:

“The maximum principal amount of the City Note A shall be an amount not to exceed Six Million Two Hundred Thousand and No/100 Dollars (\$6,200,000) and the maximum principal amount of the City Note B shall be an amount not to exceed Two Million Three Hundred Thousand and Twenty Four Thousand and No/100 Dollars (\$2,324,000). Interest on the City Notes will begin to accrue upon the issuance of the Certificate at the applicable City Note Interest Rate and will not compound annually.”

(D.) The FIFTH (5TH) sentence of Section 4.03(c)(ii) currently reads as follows:

In the event 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 Available Incremental Taxes to prepay the City Note B or for any other legal use that the City may deem necessary or appropriate. City Note B may be prepaid in whole or in part, without premium or penalty at any time.

The FIFTH (5TH) sentence of Section 4.03(c)(ii) quoted above shall be deleted and the following sentence inserted in its place:

In the event Available Incremental Taxes are more than sufficient to pay the scheduled annual payment due hereunder and under Section 4.03(c)(i) (and no shortfall amounts remain unpaid), the City, shall use such excess Available Incremental Taxes to to pay Developer, on a pay as you go basis, an amount equal to the Pay-as-You Go Payment Maximum Amount; provided, that the total amount of City Funds shall not exceed a cumulative total of Thirteen Million Four Hundred Thousand and No/100 Dollars (\$13,400,000) and City Note B may be prepaid in whole or in part, without premium or penalty at any time.

SECTION 3. MISCELLANEOUS

Section 3.01 No Effect on Recording Priority of Agreement. The parties agree that entering into this Amendment shall have no effect on the recording priority of the Agreement and that this Amendment shall relate back to the date the Agreement was originally recorded in the land title records of Cook County, Illinois.

Section 3.02 No Change in Defined Terms. All capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Agreement.

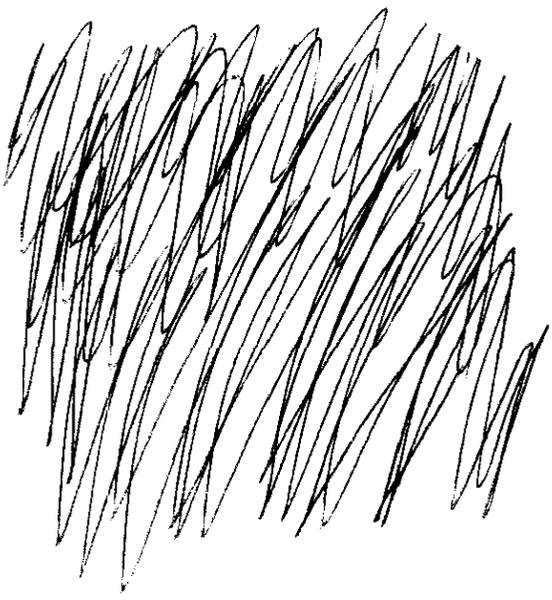
Section 3.03 Other Terms in the Agreement Remain. All other provisions and terms of the Agreement shall remain unchanged.

Section 3.04 Authority. Each of the Developer entities represents and warrants to the other parties that this Amendment is duly authorized by all necessary corporate or limited liability company action and that the person executing this Amendment on behalf of such party is duly authorized to execute this Second Amendment on behalf of such party.

Section 3.05 Recording and Filing. The Developer shall cause this Amendment and all amendments and supplements hereto to be recorded and filed against the Property and the IITRI Tower Building on the date hereof in the conveyance and real property records of the county in which the Project is located. 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 Amendment showing the date and recording number of record, a copy of the revised owners title policy Developer shall obtains over Property showing the Agreement (as amended) as an exception to title with the same priority as upon the original closing of the Agreement.

Section 3.06 Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Amendment.

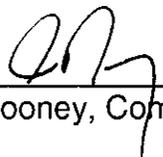
[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK
– SIGNATURE PAGE FOLLOWS]



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

City

CITY OF CHICAGO, a municipal corporation, acting by and through its Department of Housing and Economic Development

By:  _____
Andrew Mooney, Commissioner

Developer

TOWNSEND CHICAGO, LLC, a Delaware limited liability company

By: _____
Kevin W. Keyser
Its: Vice-President

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

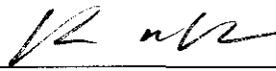
City

CITY OF CHICAGO, a municipal corporation, acting by and through its Department of Housing and Economic Development

By: _____
Andrew Mooney, Commissioner

Developer

TOWNSEND CHICAGO, LLC, a Delaware limited liability company

By:  _____
Kevin W. Keyser
Its: Vice-President

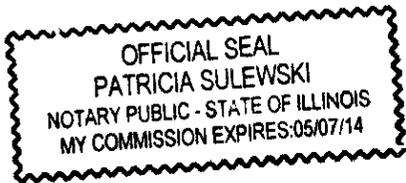
STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

I, Patricia Sulewski, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Andrew Mooney, personally known to me to be the Commissioner of the Department of Housing and Economic 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 instruments pursuant to the authority given to him by the City, as her free and voluntary act and as the free and voluntary acts of the City, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 12th day of December, 2012.

Patricia Sulewski

Notary Public



My Commission Expires 5/7/14

(SEAL)

MARYLAND
STATE OF ILLINOIS)
CITY OF BALTICORE) SS
COUNTY OF COOK)

I Jennifer L. Armstrong, a notary public in and for the said ^{city} County, in the State aforesaid DO HEREBY CERTIFY that ^{James Berens} ~~James Berens~~, personally known to me to be the ^{vice} President of Townsend Chicago, LLC, a Delaware limited liability company (the "Developer"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the Developer, as his/her free and voluntary act and as the free and voluntary act of the Developer for the uses and purposes therein set forth

GIVEN under my hand and official seal this 10th day of December 2012.

Jennifer L. Armstrong
Notary Public

My Commission Expires 8/9/2013



**AMENDMENT TO TOWNSEND CHICAGO, LLC
REDEVELOPMENT AGREEMENT**

EXHIBIT B

Property Legal Description

That part of Lots 19 to 25 and part of Lots 44 and 45 and part of the North/South 16 foot wide alley adjoining said Lots in Hannah Busby's Subdivision of part of the Southwest Quarter of Block 16 of Canal Trustee's Subdivision of Section 33, Township 39 North, Range 14, East of the Third Principal Meridian, described as follows: commencing at the Southeast corner of said Lot 25; Thence South 89° 55' 58" West along the South line thereof 5.11 feet; Thence North 00° 04' 02" West 11.31 feet to the point of beginning; Thence North 89° 58' 26" West 133.71 feet to the West line of said alley; Thence North 00° 00' 00" East along said West line 108.48 feet to the South line of Lot 45; Thence South 89° 55' 58" West along said South line 108.18 feet; Thence North 00° 02' 26" East 37.70 feet; Thence South 89° 58' 35" East 241.83 feet; Thence South 00° 00' 48" East 146.01 feet to the point of beginning, in Cook County, Illinois.

ALSO

That part of the South 120 feet North of 35th Street of the West 120 feet, taken as a tract, in Andrews Subdivision of Block 16 of Canal Trustee's Subdivision of Section 33, Township 39 North, Range 14, East of the Third Principal Meridian, described as follows: beginning at the Northeast corner of said tract said point also being the Southeast corner of Lot 45 in said Hannah Busby's Subdivision; Thence South 89° 55' 58" West along the North line of said tract 108.18 feet; Thence South 00° 02' 26" West 108.30 feet; Thence South 89° 58' 26" East 108.26 feet to the East line of said tract; Thence North 00° 00' 00" West along said East line 108.48 feet to the point of beginning, in Cook County, Illinois.

ADDRESS OF PROPERTY: 3440 South Dearborn Street
Chicago, Illinois 60616

PINs: 17-33-223-043-0000; and 17-33-223-044-0000

**AMENDMENT TO TOWNSEND CHICAGO, LLC
REDEVELOPMENT AGREEMENT**

EXHIBIT B-1

ITRI TOWER LEGAL DESCRIPTION

Lots 19 to 32 in Bassett's Subdivision of the Southeast Quarter of Block 16 of Canal Trustee's Subdivision of Section 33, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

ALSO

The East Half of vacated South Dearborn Street lying West and adjoining Lots 26 to 32 in Bassett's Subdivision of the Southeast Quarter of Block 16 of Canal Trustee's Subdivision of Section 33, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

ALSO

That part of the North/South vacated alley lying South of the South line of Lots 19 and 32 extended in Bassett's Subdivision of the Southeast Quarter of Block 16 of Canal Trustee's Subdivision of Section 33, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

ADDRESS OF PROPERTY: 10 West 35th Street
Chicago, Illinois 60616

PIN: Part of 17-33-224-058-0000