

PO # 14348



Doc#: 0623532073 Fee: \$416.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 08/23/2006 04:57 PM Pg: 1 of 197

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

**MERCY HOSPITAL AND MEDICAL CENTER**  
**REDEVELOPMENT AGREEMENT**

This Mercy Hospital and Medical Center Redevelopment Agreement (this "Agreement") is made as of this 23rd day of August, 2006, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("DPD"), and Mercy Hospital and Medical Center, an Illinois not-for-profit corporation (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

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time (the "Act"), to finance projects that eradicate blighted conditions and conservation area factors through the use of tax increment allocation financing for redevelopment projects.

**C. City Council Authority:** To induce redevelopment pursuant to the Act, the City Council of the City (the "City Council") adopted the following ordinances on January 11, 2006: (1) "An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the 26<sup>th</sup> and King Drive Redevelopment Project Area"; (2) "An Ordinance of the City of Chicago, Illinois Designating the 26<sup>th</sup> and King Drive 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 26<sup>th</sup> and King Drive 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 owns and operates the Mercy Hospital and Medical Center Campus, which is comprised of four buildings- the Main Hospital Building, the MRI Building, the Research Building and the Interns and Residents Building, and adjacent surface parking lots (the "**Mercy Hospital Property**"). In addition, the Developer has the option to acquire certain property known as H-Lot (the "**H-Lot**") owned by The Sisters of St. Francis Health Services, Inc., an Illinois not-for-profit corporation ("**The Sisters**") at anytime through 2009. The Mercy Hospital Property and H-Lot are located within the Redevelopment Area at Chicago, Illinois 60616 and are legally described on **Exhibit B-1** hereto (collectively, the "**Property**"), and, within the time frames set forth in **Section 3.01** hereof, shall commence and complete construction and rehabilitation of the facilities more full described in **Exhibit B-2** attached hereto (the "**Facility**") thereon. The Facility and related improvements (including but not limited to those TIF-Funded Improvements as defined below and set forth on **Exhibit C**) are collectively referred to herein as the "**Project**" and are further described on **Exhibit B-2**. 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 26<sup>th</sup> and King Drive Redevelopment Project Area Tax Increment Financing Program Redevelopment Plan (the "**Redevelopment Plan**") attached hereto as **Exhibit D**.

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

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

## SECTION 1. RECITALS

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

## SECTION 2. DEFINITIONS

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

“**Act**” shall have the meaning set forth in the Recitals hereof.

“**Actual residents of the City**” shall have the meaning set forth in **Section 10.02** hereof.

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

“**Available Incremental Taxes**” shall mean an amount equal to 95% of the Incremental Taxes deposited in the 26<sup>th</sup> and King Drive Redevelopment Project Area TIF Fund attributable to the taxes levied on the Property as adjusted to reflect the amount of the City Fee described in **Section 4.05(c)** hereof.

“**Business Relationship**” shall have the meaning set forth in **Section 18.22** hereof

“**Certificate**” shall mean the Certificate of Completion of Construction and Rehabilitation 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**” shall have the meaning set forth in the Recitals hereof.

“**City Council**” shall have the meaning set forth in the Recitals hereof.

“**City Fee**” shall mean the fee described in **Section 4.05(c)** hereof.

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

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

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

“**Construction Program**” shall have the meaning set forth in **Section 10.03(a)** hereof.

“**Corporation Counsel**” shall mean the City's Office of Corporation Counsel.

“**DPD**” shall mean the Department of Planning and Development of the City of Chicago.

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

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

“**Equity**” shall mean funds of the Developer (other than funds derived from Lender Financing) irrevocably available for the Project, in the amount set forth in **Section 4.01** hereof, which amount may be increased pursuant to **Section 4.06** (Cost Overruns) or [**Section 4.03(b)**.]

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

“**Existing Mortgage**” shall have the meaning set forth in **Section 16** hereof.

“**Exterior Facade Restoration Work**” shall have the meaning set forth in **Exhibit B-2** hereof.

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

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

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

“**H-Lot**” shall have the meaning set forth in the Recitals and **Exhibit B-2** hereof.

“**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 26<sup>th</sup> and King Drive established to pay Redevelopment Project Costs and obligations incurred in the payment thereof.

“**Indemnitee(s)**” shall have the meaning set forth in **Section 13.01** hereof.

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

“**MBE(s)**” shall mean a business identified in the Directory of Certified Minority Business Enterprises published by the City's Department of Procurement Services, or otherwise certified by the City's Department of Procurement Services as a minority-owned business enterprise, related to the Procurement Program or the Construction Program, as applicable.

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

“**MBE/WBE Program**” shall have the meaning set forth in **Section 10.03(a)** hereof.

“**Mercy Hospital Property**” shall have the meaning set forth in **Exhibit B-2**.

“**Municipal Code**” shall mean the Municipal Code of the City of Chicago.

“**New Mortgage**” shall have the meaning set forth in **Section 16** hereof.

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

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

“**Permitted Mortgage**” shall have the meaning set forth in **Section 16** hereof.

“**Phase I**” shall have the meaning set forth in **Exhibit B-2** hereof.

**“Phase II”** shall have the meaning set forth in **Exhibit B-2** hereof.

**“Plans and Specifications”** shall mean initial construction documents containing a site plan and working drawings and specifications for the applicable phase of the Project, as submitted to the City as the basis for obtaining building permits for the Project.

**“Prior Expenditure(s)”** shall have the meaning set forth in **Section 4.05(a)** hereof.

**“Procurement Program”** shall have the meaning set forth in **Section 10.03(a)** hereof.

**“Project”** shall have the meaning set forth in the Recitals hereof.

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

**“Property”** shall have the meaning set forth in the Recitals hereof.

**“Redevelopment Area”** shall have the meaning set forth in the Recitals hereof.

**“Redevelopment Plan”** shall have the meaning set forth in the Recitals hereof.

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

**“Requisition Form”** shall mean the document, in the form attached hereto as **Exhibit L**, to be delivered by the Developer to DPD pursuant to **Section 4.04** of this Agreement.

**“Scope Drawings”** shall mean preliminary construction documents containing a site plan and preliminary drawings and specifications for the applicable phase of the Project.

**“Survey”** shall mean a Class A plat of survey in the most recently revised form of ALTA/ACSM [land title] [urban] survey of the Property dated within 45 days prior to the Closing Date, acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State of Illinois, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and updates thereof to reflect improvements to the Property in connection with the construction of the Facility and related improvements as required by the City or lender(s) providing Lender Financing).

**“Term of the Agreement”** shall mean the period of time commencing on the Closing Date and ending on (a) July 1, 2018 for Phase I of the Project and (b) the date on which the Redevelopment Area is no longer in effect (through and including January 10, 2029) for Phase II of the Project.

**“TIF Adoption Ordinance”** shall have the meaning set forth in the Recitals hereof.

**“TIF-Funded Improvements”** shall mean those improvements of the Project which (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Redevelopment Plan and (iii) the City has agreed to pay for out of the City Funds, subject to the terms of this Agreement. **Exhibit C** lists the TIF-Funded Improvements for the Project.

**“TIF Ordinances”** shall have the meaning set forth in the Recitals hereof.

**“Title Company”** shall mean Near North Title, LLC.

**“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.

**“Total Project Costs”** shall have the meaning set forth in **Section 4.01** hereof.

**“26<sup>th</sup> and King Drive 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.

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

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

### SECTION 3. THE PROJECT

**3.01 The Project.** The Developer shall, pursuant to the Plans and Specifications and subject to the provisions of **Section 18.17** hereof, commence and complete construction of the applicable Phases of the Project in accordance with the schedule entitled, “Mercy Hospital’s Capital Expenditure Cash Flow” attached hereto as **Exhibit B-3**; provided, however, that Phase II of the Project shall be completed no later than January 10, 2029.

**3.02 Scope Drawings and Plans and Specifications.** The Developer has delivered a description of the Project to DPD and DPD has approved same. The Developer shall deliver to DPD for approval initial Scope Drawings and Plans and Specifications for certain elements of the Project prior to the Closing Date, and the remaining Plans and Specifications prior to commencing construction of such elements. After such initial approval, certain 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, an initial Project Budget showing total costs for the Project of approximately TWO HUNDRED SIXTY-THREE MILLION ONE HUNDRED FIFTY-ONE THOUSAND SIX HUNDRED THIRTY EIGHT DOLLARS (\$263,151,638). The Developer hereby certifies to the City that (a) the City Funds, together with Lender Financing, if any, 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.** Change Orders relating to material changes to the Project described below (and documentation substantiating the need and identifying the source of funding therefor) must be submitted by the Developer to DPD for DPD's prior written approval: (a) changes which reflect a change in the basic use of the Property and improvements; (b) changes to the exterior finish materials; (c) changes to the environmentally-friendly features of the Project; a delay in the completion date of the Project; (d) any changes which increase or decrease the approved Project Budget by more than five percent (5%) individually or cumulatively. The Developer shall not authorize or permit the performance of any work relating to any Change Order or the furnishing of materials in connection therewith prior to the receipt by the Developer of DPD's written approval. 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. The Developer shall notify DPD in writing of any changes to the Project that do not require DPD's prior written approval in the progress report described in **Section 3.07** below, and the Developer, in connection with such notice, shall identify to DPD the source of funding therefor.

**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.** By November 30<sup>th</sup> of each year, the Developer shall provide DPD, for DPD's approval, with written annual progress reports detailing the status of the Project and providing an updated scope, updated Project Budget including schedule of cash flow and expenditures, improvements intended to be undertaken in the subsequent years and 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 independent agent or architect (other than the Developer's architect) approved by DPD shall be selected to act as the inspecting agent or architect, at the Developer's expense, for the Project. The inspecting agent or architect shall perform periodic inspections with respect to the Project, providing certifications with respect thereto to DPD, prior to requests for disbursement for costs related to the Project.

**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.

**3.13 Releases.** The Redevelopment Agreement shall supercede and release all reservations, covenants, restrictions and obligations, as the same pertain to the real property described at Exhibit B-1, attached hereto and made a part hereof, set forth in that certain: (i) Redevelopment Agreement with the City of Chicago recorded August 8, 1963 as Document No. 18877925; and (ii) and Redevelopment Plan Revision No. 1, recorded July 23, 1963 as Document No. 18860883 and Revision No. 2 recorded April 12, 1967 as Document No. 20107663.

The Redevelopment Agreement shall release all reservations, covenants, restrictions and obligations, as the same set forth in that certain: (i) Quit Claim Deed from the City of Chicago recorded August 14, 1963 as Document No. 18883395; (ii) Quit Claim Deed from the City of Chicago recorded April 4, 1966 as Document No. 19786675; and (iii) Quit Claim Deed from the City of Chicago recorded August 13, 1967 as Document No. 2018864.

The Redevelopment Agreement shall release all City easements reservations, covenants, restrictions and obligations, as the same set forth in that certain Vacation Ordinance by the City of Chicago recorded August 8, 1963 as Document Number 18878228.

The City agrees that any provision contained in the Ordinance recorded June 21, 1929 as Document No. 10407377 rendering the vacation null and void if any part of the alley therein vacated shall ever be used for other than educational, religious or charitable purposes is hereby extinguished and terminated.

## **SECTION 4. FINANCING**

**4.01 Total Project Costs and Sources of Funds.** The Total Project Costs are estimated to be \$263,151,638, to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

Equity (cash from operations)	\$202,254,207
Estimated City Funds	<u>60,897,431</u>
<b>(ESTIMATED) TOTAL PROJECT COSTS</b>	<b>\$263,151,638</b>

**4.02 Developer Funds.** Equity 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 C** sets forth, by line item, the TIF-Funded Improvements for the Project, and the

maximum amount of costs that may be paid by or reimbursed from City Funds for each line item therein (subject to **Sections 4.03(b) and 4.05(d)**), contingent upon receipt by the City of documentation satisfactory in form and substance to DPD evidencing such cost and its eligibility as a Redevelopment Project Cost. City Funds shall not be paid to the Developer hereunder prior to the issuance of an Initial Completion Certificate.

(b) **Sources of City Funds.** Subject to the terms and conditions of this Agreement, including but not limited to this **Section 4.03** and **Section 5** hereof, the City hereby agrees to provide City funds from the sources and in the amounts described directly below (the “City Funds”) to pay for or reimburse the Developer for the costs of the TIF-Funded Improvements:

<u>Source of City Funds</u>	<u>Maximum Amount</u>
Available Incremental Taxes	\$60,897,431

provided, however, that the total amount of City Funds expended for TIF-Funded Improvements shall be an amount not to exceed the lesser of SIXTY MILLION EIGHT HUNDRED NINETY-SEVEN THOUSAND FOUR HUNDRED THIRTY ONE DOLLARS (\$60,897,431) or twenty-three and fourteen one hundredths percent (23.14%) of the actual total Project costs, with such amount to be further reduced by the City Fee; and provided further, that the City Funds to be derived from Available Incremental Taxes, if any shall be available to pay costs related to TIF-Funded Improvements and allocated by the City for that purpose only so long as:

- (i) The amount of the Available Incremental Taxes deposited into the 26th and King Drive TIF Fund shall be sufficient to pay for such costs; and
- (ii) The City has been reimbursed from Available Incremental Taxes for the amount previously disbursed by the City for TIF-Funded Improvements;

The Developer acknowledges and agrees that the City's obligation to pay for TIF-Funded Improvements is contingent upon the fulfillment of the conditions set forth in parts (i) and (ii) and above. In the event that such conditions are not fulfilled, the amount of Equity to be contributed by the Developer pursuant to **Section 4.01** hereof shall increase proportionately.

**4.04 Requisition Form.** On the Closing Date and prior to each October 1 (or such other date as the parties may agree to) thereafter, beginning in 2006 and continuing throughout the earlier of (i) the Term of the Agreement or (ii) the date that the Developer has been reimbursed in full under this Agreement, the Developer shall provide DPD with a Requisition Form, along with the documentation described therein. Requisition for reimbursement of TIF-Funded Improvements shall be made not more than one time per calendar year (or as otherwise permitted by DPD). On each November 30 (or such other date as may be acceptable to the parties), beginning in 2006 and continuing throughout the Term of the Agreement, the Developer shall meet with DPD at the request of DPD to discuss the Requisition Form(s) previously delivered.

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

(a) **Prior Expenditures.** Only those expenditures made by the Developer with respect to the Project prior to the Closing Date, evidenced by documentation satisfactory to DPD and approved by DPD as satisfying costs covered in the Project Budget, shall be considered previously contributed Equity or Lender Financing hereunder (the “**Prior Expenditures**”). DPD shall have the right, in its sole discretion, to disallow any such expenditure as a Prior Expenditure. **Exhibit I** hereto sets forth the prior expenditures approved by DPD as 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.

(c) **City Fee.** Annually, the City may allocate an amount not to exceed five percent (5%) of the Incremental Taxes for payment of costs incurred by the City for the administration and monitoring of the Redevelopment Area, including the Project. Such fee shall be in addition to and shall not be deducted from or considered a part of the City Funds, and the City shall have the right to receive such funds prior to any payment of City Funds hereunder.

(d) **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.

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

**4.07 Preconditions of Disbursement.** Prior to each annual disbursement of City Funds hereunder, 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 or the actual 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 disbursement request 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 total amount of City Funds disbursed, including the amount requested in the pending Requisition Form, does not exceed 23.14% of the Total Project Costs incurred by the Developer;

(e) implementation of the Project is in accordance with the most recently approved Scope Drawings, Plans and Specifications, timelines and Project Budget;

(f) the Developer expects to have obtained a Certificate by July 1, 2018;

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

(h) 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;

(i) 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

(j) the Project is In Balance. The Project shall be deemed to be in balance (“**In Balance**”) only if the total of the available Project funds equals or exceeds the aggregate of the amount necessary to pay all unpaid Project costs incurred or to be incurred in the completion of the Project. “**Available Project Funds**” as used herein shall mean: (i) the undisbursed City Funds; (ii) the undisbursed Lender Financing, if any; (iii) the undisbursed Equity and (iv) any other amounts deposited by the Developer pursuant to this Agreement. The Developer hereby agrees that, if the Project is not In Balance, the Developer shall, within 10 days after a written request by the City, 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.

## 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, an [initial] Project Budget in accordance with the provisions of **Section 3.03** hereof.

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

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

**5.04 Financing.** The Developer has furnished proof reasonably acceptable to the City that the Developer has Equity and/or 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 construction escrow agreement entered into by the Developer regarding the Lender Financing. Any liens against the Property in existence at the Closing Date have been subordinated to certain encumbrances of the City set forth herein pursuant to a Subordination Agreement, in a form acceptable to the City, executed on or prior to the Closing Date, which is to be recorded, at the expense of the Developer, with the Office of the Recorder of Deeds of Cook County.

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

**5.06 Evidence of Clean Title.** The Developer, at its own expense, has provided the City with searches under the Developer's name and the following trade names of the Developer: Mercy Health System of Chicago as follows:

Secretary of State	UCC search
Secretary of State	Federal tax search
Cook County Recorder	UCC search
Cook County Recorder	Fixtures search
Cook County Recorder	Federal tax search
Cook County Recorder	State tax search
Cook County Recorder	Memoranda of judgments search
U.S. District Court	Pending suits and judgments
Clerk of Circuit Court, Cook County	Pending suits and judgments

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

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

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

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

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

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

**5.12 Documentation.** The Developer has provided documentation to DPD, satisfactory in form and substance to DPD, with respect to current employment matters, initial description, and form of the construction contract.

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

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

## SECTION 6. AGREEMENTS WITH CONTRACTORS

**6.01 Bid Requirement for General Contractor and Subcontractors.** (a) Except as set forth in **Section 6.01(b)** below, prior to entering into an agreement with a General Contractor or any subcontractor for construction of the Project, the Developer shall solicit, or shall cause the General Contractor to solicit, bids from qualified contractors eligible to do business with the City of Chicago, and shall submit all bids received to DPD for its inspection and written approval. 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. 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 \_\_\_% of the total amount of the Construction Contract. Except as explicitly stated in this paragraph, all other provisions of **Section 6.01(a)** shall apply, including but not limited to the requirement that the General Contractor shall solicit competitive bids from all subcontractors.

**6.02 Construction Contract.** Prior to the execution thereof, the Developer shall deliver to DPD a copy of the proposed Construction Contract with the General Contractor selected to handle the Project in accordance with **Section 6.01** above, for DPD's prior written approval, which shall be granted or denied within ten (10) business days after delivery thereof. Within ten (10) business days after execution of such contract by the Developer, the General Contractor and any other parties thereto, the Developer shall deliver to DPD and Corporation Counsel a certified copy of such contract together with any modifications, amendments or supplements thereto.

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

**6.04 Employment Opportunity.** The Developer shall contractually obligate and cause the General Contractor and each subcontractor to agree to the provisions of **Section 10** hereof.

**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 Certificates of Completion of Construction.** Upon completion of the construction of the applicable component of the Project, in accordance with the terms of this Agreement, and upon the Developer's written request, DPD shall issue to the Developer an Initial Completion and the Final Completion Certificate (each, a "Certificate"), as applicable, all in recordable form certifying that the Developer has fulfilled its obligation to complete the applicable component of the Project in accordance with the terms of this Agreement.

(a) The Initial Completion Certificate will not be issued until:

(i) The Exterior Facade Restoration Work has been completed and approved in the sole discretion of DPD; and

(ii) 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 8.09**

(MBE/WBE, City Residency and Prevailing Wage) with respect to the construction of the Exterior Facade Restoration Work; and

(iii) There exists neither an Event of Default (after any applicable cure period) which is continuing nor a condition or event which, with the giving notice or passage of time or both, would constitute an Event of Default.

(b) The Final Completion Certificate will not be issued until:

(i) The City has issued an Initial Completion Certificate; and

(ii) The Developer demonstrates that construction of Phase I of the Project has been completed; and

(iii) The City's Monitoring and Compliance Unit has verified that the Developer is in full compliance with City requirements set forth in **Section 10** and **Section 8.09** (MBE/WBE, City Residency and Prevailing Wage) with respect to the construction of Phase I of the Project, and 100% of the Developer's MBE/WBE Commitment in **Section 10.03** has been fulfilled; and

(iv) There exists neither an Event of Default (after any applicable cure period) which is continuing nor a condition or event which, with the giving notice or passage of time or both, would constitute an Event of Default.

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 of Phase I of the Project, and upon its issuance, the City will certify that the terms of the Agreement specifically related to the Developer's obligation to complete such activities have been satisfied. After the issuance of a Certificate, however, all executory terms and conditions of this Agreement and all representations and covenants contained herein will continue to remain in full force and effect throughout the Term of the Agreement as to the parties described in the following paragraph, and the issuance of the Certificate shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms.

Those covenants specifically described at **Sections 8.02**, and **8.19** as covenants that run with the land are the only covenants in this Agreement intended to be binding upon any transferee of the Property (including an assignee as described in the following sentence) throughout the Term of the Agreement notwithstanding the issuance of 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;

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

**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 not-for-profit corporation duly organized, validly existing, qualified to do business in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

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

(c) the execution, delivery and performance by the Developer of this Agreement has been duly authorized by all necessary corporate action, and does not and will not violate its Articles of Incorporation or by-laws as amended and supplemented, any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or

document to which the Developer is now a party or by which the Developer is now or may become bound;

(d) unless otherwise permitted or not prohibited pursuant to or under the terms of this Agreement, the Developer has and shall maintain good, indefeasible and merchantable fee simple title to the Mercy Hospital 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), except for parcels described on **Exhibit B-1** which may be sold in fee simple to Mercy Campus Developers, L.L.C., an Illinois limited liability company ("Mercy Campus Developers, L.L.C."), or another entity acceptable to DPD in the Commissioner's sole discretion.

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

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

(g) the Developer has and shall maintain all government permits, certificates and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to construct, complete and operate the Project;

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

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

(j) prior to the issuance of a Certificate, and except for those terms provided for in (d), 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, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or any portion of the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto) except in the ordinary course of business; (3) enter into any transaction outside the ordinary course of the Developer's business; (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) the Developer has not incurred, and, prior to the issuance of a Certificate, and except for those terms provided for in (d), shall not, without the prior written consent of the Commissioner of DPD, allow the existence of any liens against the Property (or improvements thereon) other than the Permitted Liens; or incur any indebtedness, secured or to be secured by the Property (or improvements thereon) or any fixtures now or hereafter attached thereto, except Lender Financing disclosed in the Project Budget; and

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

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

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

**8.05 Other Bonds.** The Developer shall, at the request of the City, agree to any reasonable amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole discretion) any bonds in connection with the Redevelopment Area, the proceeds of which may be used to reimburse the City for expenditures made in connection with, or provide a source of funds for the payment for, the TIF-Funded Improvements (the “**Bonds**”); provided, however, that any such amendments shall not have a material adverse effect on the Developer or the Project. 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.

**8.06 [Reserved].**

**8.07 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**. 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). The Developer shall also submit reports annual progress reports demonstrating compliance with the Agreement, revised scopes, budgets and timelines for the Project and capital improvements. Such reports shall be delivered to the City by November 30<sup>th</sup> of each year. 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 2005 and each year thereafter for the Term of the Agreement. In addition, the Developer shall submit unaudited financial statements as soon as reasonably practical following the close of each fiscal year and for such other periods as DPD may request.

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

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

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

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

(ii) at DPD's sole option, to furnish a good and sufficient bond or other security satisfactory to DPD in such form and amounts as DPD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property or any portion thereof or any fixtures that are or may be attached thereto, during the pendency of such contest, adequate to pay fully any such contested Non-Governmental Charge and all interest and penalties upon the adverse determination of such contest.

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

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

**8.18 Recording and Filing.** The Developer shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed against the Property on the date hereof in the conveyance and real property records of the county in which the Project is located. This Agreement shall be recorded prior to any mortgage made in connection with Lender Financing. The Developer shall pay all fees and charges incurred in connection with any such recording. Upon recording, the Developer shall immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

**8.19 Real Estate Provisions.**

(a) Governmental Charges.

(i) Payment of Governmental Charges. The Developer agrees to pay or cause to be paid when due any Governmental Charges (as defined below) which are assessed or imposed upon the Developer, the Property or the Project, or become due and payable, and which create, may create, a lien upon the Developer or all or any portion of the Property or the Project. **“Governmental Charge”** shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances relating to the Developer, the Property or the Project including but not limited to real estate taxes.

(ii) Right to Contest. The Developer has the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of the Property. The Developer’s right to challenge real estate taxes applicable to the Property is limited as provided for in **Section 8.19(c)** below; provided, that such real estate taxes must be paid in full when due and may be disputed only after such payment is made. No such contest or objection shall be deemed or construed in any way as relieving, modifying or extending the Developer’s covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless the Developer has given prior written notice to DPD of the Developer’s intent to contest or object to a Governmental Charge and, unless, at DPD’s sole option,

(i) 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

(ii) 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) Covenants Running with the Land. The parties agree that the restrictions contained in this Section 8.19 are covenants running with the land and this Agreement shall be recorded by the Developer as a memorandum thereof, at the Developer's expense, with the Cook County Recorder of Deeds on the Closing Date. These restrictions shall be binding upon the Developer and its agents, representatives, lessees, successors, assigns and transferees from and after the date hereof, provided however, that the covenants shall be released when the Redevelopment Area is no longer in effect. The Developer agrees that any sale, lease, conveyance, or transfer of title to all or any portion of the Property or Redevelopment Area from and after the date hereof shall be made explicitly subject to such covenants and restrictions. Notwithstanding anything contained in this Section 8.19(c) to the contrary, the City, in its sole discretion and by its sole action, without the joinder or concurrence of the Developer, its successors or assigns, may waive and terminate the Developer's covenants and agreements set forth in this Section 8.19.

**8.20 Permitted Uses.** The Facility shall be operated as a hospital for a period of 30 years from the Closing Date.

**8.21 Public Benefits Program.** The Developer shall, as of the date hereof, 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.

**8.22 Survival of Covenants.** All warranties, representations, covenants and agreements of the Developer contained in this Section 8 and elsewhere in this Agreement shall be true, accurate and complete at the time of the Developer's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and shall be in effect throughout the Term of the Agreement, except that the covenant in Section 8.02 shall be released with respect to the applicable Phase of the Project upon the issuance of a Certificate and the use covenant in Section 8.20 shall be in effect for 30 years from the Closing Date.

## SECTION 9. COVENANTS/REPRESENTATIONS/WARRANTIES OF CITY

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

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

## **SECTION 10. DEVELOPER'S EMPLOYMENT OBLIGATIONS**

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

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

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

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

(d) Each Employer, in order to demonstrate compliance with the terms of this Section, shall cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of federal, state and municipal agencies.

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

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

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

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

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

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

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

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

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

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

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

Nothing herein provided shall be construed to be a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity,

**Executive Order 11246**” and “**Standard Federal Equal Employment Opportunity, Executive Order 11246**,” or other affirmative action required for equal opportunity under the provisions of this Agreement or related documents.

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

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

(a) Consistent with the findings which support, as applicable, (i) the Minority-Owned and Women-Owned Business Enterprise Procurement Program, Section 2-92-420 et seq., Municipal Code of Chicago (the “**Procurement Program**”), and (ii) the Minority- and Women-Owned Business Enterprise Construction Program, Section 2-92-650 et seq., Municipal Code of Chicago (the “**Construction Program**,” and collectively with the Procurement Program, the “**MBE/WBE Program**”), and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this **Section 10.03**, during the course of the Project, at least the following percentages of the MBE/WBE Budget (as set forth in **Exhibit H-2** hereto) shall be expended for contract participation by MBEs and by WBEs:

- (1) At least 24 percent by MBEs.
- (2) At least four percent by WBEs.

(b) For purposes of this **Section 10.03** only, the Developer (and any party to whom a contract is let by the Developer in connection with the Project) shall be deemed a “**contractor**” and this Agreement (and any contract let by the Developer in connection with the Project) shall be deemed a “**contract**” or a “**construction contract**” as such terms are defined in Sections 2-92-420 and 2-92-670, Municipal Code of Chicago, as applicable.

(c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code of Chicago, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by the Developer) or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of (i) the MBE or WBE participation in such joint venture or (ii) the amount of any actual work performed on the Project by the MBE or WBE), by the Developer utilizing a MBE or a WBE as the General Contractor (but only to the extent of any actual work performed on the Project by the General Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the Project to one or more MBEs or WBEs, or by the purchase of materials or services used in the Project from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to the Developer's MBE/WBE commitment as described in this **Section 10.03**. In accordance with Section 2-92-730, Municipal Code of Chicago, the

Developer shall not substitute any MBE or WBE General Contractor or subcontractor without the prior written approval of DPD.

(d) The Developer shall deliver quarterly reports to the City's monitoring staff during the Project describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports shall include, inter alia, the name and business address of each MBE and WBE solicited by the Developer or the General Contractor to work on the Project, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the Project, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist the City's monitoring staff in determining the Developer's compliance with this MBE/WBE commitment. The Developer shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs in connection with the Project for at least five years after completion of the Project, and the City's monitoring staff shall have access to all such records maintained by the Developer, on five Business Days' notice, to allow the City to review the Developer's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the Project.

(e) Upon the disqualification of any MBE or WBE General Contractor or subcontractor, if such status was misrepresented by the disqualified party, the Developer shall be obligated to discharge or cause to be discharged the disqualified General Contractor or subcontractor, and, if possible, identify and engage a qualified MBE or WBE as a replacement. For purposes of this subsection (e), the disqualification procedures are further described in Sections 2-92-540 and 2-92-730, Municipal Code of Chicago, as applicable.

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

(g) Prior to the commencement of the Project, the Developer shall be required to meet with the City's monitoring staff with regard to the Developer's compliance with its obligations under this **Section 10.03**. The General Contractor and all major subcontractors shall be required to attend this pre-construction meeting. During said meeting, the Developer shall demonstrate to the City's monitoring staff its plan to achieve its obligations under this Section 10.03, the sufficiency of which shall be approved by the City's monitoring staff. During the Project, the Developer shall submit the documentation required by this Section 10.03 to the City's monitoring staff, including the following: (i) subcontractor's activity report; (ii) contractor's certification concerning labor standards and prevailing wage requirements; (iii) contractor letter of understanding; (iv) monthly utilization report; (v) authorization for payroll agent; (vi) certified payroll; (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 the City's monitoring staff, upon analysis of the documentation, that the Developer is not complying with its obligations under this Section 10.03, shall, upon the delivery of written notice to the

Developer, be deemed an Event of Default. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to the Developer to halt the Project, (2) withhold any further payment of any City Funds to the Developer or the General Contractor, or (3) seek any other remedies against the Developer available at law or in equity.

## **SECTION 11. ENVIRONMENTAL MATTERS**

The Developer hereby represents and warrants to the City that the Developer has conducted environmental studies sufficient to conclude that the Project may be constructed, completed and operated in accordance with all Environmental Laws and this Agreement and all Exhibits attached hereto, the Scope Drawings, Plans and Specifications and all amendments thereto 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 must provide and maintain, at Developer's own expense, or cause to be provided and maintained during the term of this Agreement, the insurance coverage and requirements specified below, insuring all operations related to the Agreement.

- A. Prior to execution and delivery of this Agreement
  - 1) Workers Compensation and Employers Liability

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

2) Commercial General Liability (Primary and Umbrella)

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

3) All Risk Property

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

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

1) Workers Compensation and Employers Liability

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

2) Commercial General Liability (Primary and Umbrella)

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

3) Automobile Liability (Primary and Umbrella)

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

4) Railroad Protective Liability

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

5) All Risk /Builders Risk

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

6) Professional Liability

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

7) Valuable Papers

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

8) Contractors Pollution Liability

When any remediation work is performed which may cause a pollution exposure, the Developer must cause remediation contractor to provide Contractor Pollution Liability covering bodily injury, property damage and other losses caused by pollution conditions that arise from the contract scope of work with limits of not less than \$1,000,000 per occurrence. Coverage must include completed operations, contractual liability, defense, excavation, environmental cleanup, remediation and disposal. When policies are renewed or replaced, the policy retroactive date must coincide with or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years. The City is to be named as an additional insured.

**C. Post Construction:**

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

**D. Other Requirements:**

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

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

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

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

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

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

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

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

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

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

The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements.

## SECTION 13. INDEMNIFICATION

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

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

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

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

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

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

#### **SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT**

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

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

**SECTION 15. DEFAULT AND REMEDIES**

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

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

(b) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under any other agreement with any person or entity if such failure may have a material adverse effect on the Developer's business, property, assets, operations or condition, financial or otherwise;

(c) the making or furnishing by the Developer to the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any material respect;

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

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

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

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

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

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

(k) all or a portion of the hospital campus is sold or converted to another use without consent of DPD, the Project is not completed according to the approved scope and timeline, the Developer does not make Capital Improvements in accordance with requirements of the Agreement, or there occur major building violations.

For purposes of **Sections 15.01(h)** and **15.01(i)** hereof, a person with a material interest in the Developer shall be one owning in excess of ten (10%) of the Developer's membership interests.

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

**15.03 Curative Period.** In the event the Developer shall fail to perform a monetary covenant which the Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the Developer has failed to perform such monetary covenant within ten (10) days of its receipt of a written notice from the City specifying that it has failed to perform such monetary covenant. In the event the Developer shall fail to perform a non-monetary covenant which the Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the Developer has failed to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, the Developer shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

## SECTION 16. MORTGAGING OF THE PROJECT

All mortgages or deeds of trust in place as of the date hereof with respect to the Property or any portion thereof are listed on **Exhibit G** hereto (including but not limited to

mortgages made prior to or on the date hereof in connection with Lender Financing) and are referred to herein as the “**Existing Mortgages.**” Any mortgage or deed of trust that the Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof is referred to herein as a “**New Mortgage.**” Any New Mortgage that the Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof with the prior written consent of the City is referred to herein as a “**Permitted Mortgage.**” It is hereby agreed by and between the City and the Developer as follows:

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

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

(c) Prior to the issuance by the City to the Developer of a Certificate pursuant to Section 7 hereof, no New Mortgage shall be executed with respect to the Property or any portion thereof without the prior written consent of the Commissioner of DPD, except for the nine (9) parcels comprising the H-Lot which may be acquired from The Sisters through 2009, and except for parcels described on Exhibit B-1 which may be sold in fee simple to Mercy Campus Developers, L.L.C. or an entity acceptable to DPD in the Commissioner’s sole discretion.



the consent of any party hereto. It is agreed that no material amendment or change to this Agreement shall be made or be effective unless ratified or authorized by an ordinance duly adopted by the City Council. The term "material" for the purpose of this **Section 18.01** shall be defined as any deviation from the terms of the Agreement which operates to cancel or otherwise reduce any developmental, construction or job-creating obligations of Developer (including those set forth in **Sections 10.02 and 10.03** hereof) by more than five percent (5%) or materially changes the Project site or character of the Project or any activities undertaken by Developer affecting the Project site, the Project, or both, or increases any time agreed for performance by the Developer by more than [ninety (90)] days.

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

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

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

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

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

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

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

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

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

**18.11 Conflict.** In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances, the TIF Ordinances 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. Any successor in interest to the Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to **Sections 8.22** (Survival of Covenants) hereof, for the Term of the Agreement. The Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

**18.16 Binding Effect.** This Agreement shall be binding upon the Developer, the City and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of the Developer, the City and their respective successors and permitted assigns (as provided herein). Except as otherwise provided herein, this Agreement shall not run to the

benefit of, or be enforceable by, any person or entity other than a party to this Agreement and its successors and permitted assigns. This Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right.

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

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

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

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

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

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

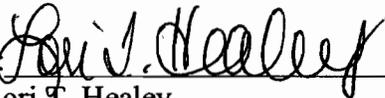
[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

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

**MERCY HOSPITAL AND MEDICAL CENTER**

By: \_\_\_\_\_  
Sheila Lyne  
President and CEO

**CITY OF CHICAGO**

By:  \_\_\_\_\_  
Lori T. Healey,  
Commissioner,  
Department of Planning and Development

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

**MERCY HOSPITAL AND MEDICAL CENTER**

By: Sheila Lyne  
Sheila Lyne  
President and CEO

**CITY OF CHICAGO**

By: \_\_\_\_\_  
Lori T. Healey,  
Commissioner,  
Department of Planning and Development





**EXHIBIT A**  
**REDEVELOPMENT AREA**  
**LEGAL DESCRIPTION**

Those parts of various lots, parts of lots and streets and alleys in various subdivisions in part of the northwest quarter and part of the southwest quarter of Section 27, Township 39 North, Range 14, East of the Third Principal Meridian, described as follows:

beginning at the intersection of the north line of East 25<sup>th</sup> Street with the west line of South Park Avenue; thence south along the west line of South Park Avenue and its southerly extension to the easterly extension of the south line of East 26<sup>th</sup> Street; thence west along said easterly extension and the south line of East 26<sup>th</sup> Street to the southerly extension of the west line of the first 18 foot public alley west of South Michigan Avenue; thence north along said extension and the west line of said 18 foot public alley and its northerly extension to the north line of East 25<sup>th</sup> Street aforesaid; thence east along the north line of East 25<sup>th</sup> Street and its easterly extensions to the point of beginning, in Cook County, Illinois.

**EXHIBIT A**

**LEGAL DESCRIPTION (CONTINUED)**

**PROPERTY INDEX NUMBERS:**

17-27-129-001,  
17-27-129-002,  
17-27-129-003,  
17-27-129-004,  
17-27-123-015,  
17-27-123-016,  
17-27-123-017,  
17-27-123-018,  
17-27-123-019,  
17-27-123-020,  
17-27-123-021,  
17-27-123-022, and  
17-27-123-023.

**PROPERTY LOCATION:**

The land bounded by 25th Street, South Park Avenue, 26th Street and the first 18 foot public alley west of South Michigan Avenue.

**EXHIBIT B-1**

**THE PROPERTY**

**LEGAL DESCRIPTION**

Those parts of various lots, parts of lots and streets and alleys in various subdivisions in part of the northwest quarter and part of the southwest quarter of Section 27, Township 39 North, Range 14, East of the Third Principal Meridian, described as follows:

beginning at the intersection of the north line of East 25<sup>th</sup> Street with the west line of South Park Avenue; thence south along the west line of South Park Avenue and its southerly extension to the easterly extension of the south line of East 26<sup>th</sup> Street; thence west along said easterly extension and the south line of East 26<sup>th</sup> Street to the southerly extension of the west line of the first 18 foot public alley west of South Michigan Avenue; thence north along said extension and the west line of said 18 foot public alley and its northerly extension to the north line of East 25<sup>th</sup> Street aforesaid; thence east along the north line of East 25<sup>th</sup> Street and its easterly extensions to the point of beginning, in Cook County, Illinois.

## EXHIBIT B-2

### THE PROJECT

The Developer owns and operates the Mercy Hospital and Medical Center Campus, which is comprised of four buildings- the Main Hospital Building, the MRI Building, the Research Building and the Interns and Residents Building, and adjacent surface parking lots (the "Mercy Hospital Property"). In addition, the Developer sold nine parcels of property to The Sisters ("H-Lot") with an option to repurchase H-Lot and with the condition that the Developer will do environmental remediation on H-Lot with funds escrowed for this purpose. The MRI Building, the Research Building and the Interns and Residents Building have fallen into disuse and have become vacant. Due to limited cash flow generation, the Developer has deferred major capital improvements. The Mercy Hospital Property and H-Lot shall be referred to herein as the "Facility."

The Developer will rehabilitate the Mercy Hospital Property, do site preparation and environmental remediation for the sale of the eastern portion of the site for residential development, and acquire and complete environmental remediation of the H-Lot for hospital parking. The Developer will also sell vacant land and buildings after remediation for private development which will generate increment to finance major improvements to the Facility.

The Project will take place in two phases. Phase I will include:

1) Exterior Facade Restoration Work at Mercy Hospital and Medical Center located at 2525 S. Michigan Avenue, Chicago, Illinois 60616. The building facade repair and maintenance includes replacement of deteriorated concrete and steel reinforcement bars associated with all of the exterior concrete structure. The restoration work also includes replacement of all deteriorated window caulk, glazing and concrete panel caulk joints. Further, all exposed concrete will be high pressure power washed to facilitate two coats of high grade pigmented concrete sealer to enhance the appearance and extend the life of the structural concrete of the 13 story building tower. The cost of the project is \$2,467,752 and will take approximately 18 months to complete. Work has begun on this project in July, 2005 in order to meet the City of Chicago requirements for building facade compliance by December, 2006.

2) The rehabilitation of the Mercy Hospital Property involving significant improvements to the buildings such as interior and exterior rehabilitation and replacement of outdated infrastructure and safety systems including:

- hospital-wide sprinkler installation
- Energy Star window replacement
- renovation cooling tower replacements and rehabilitation of patient care nursing stations, maternity and intensive care/surgery rooms
- electrical, HVAC, information/data infrastructure upgrades and roof replacement

3) The reconfiguration of portions of the Main Hospital Building and parking lots, and site preparation for the portion of the site to be sold for residential development. The site 'development ready' aspect involves demolition, asbestos removal and other environmental remediation. The rehabilitation of the Main Hospital Building involves reconfiguration of the first floor ingress and egress and relocation of departments to provide direct access from the reconfigured parking

4) Re-acquisition of H-Lot from The Sisters anytime through 2009. Once re-acquired, the Developer will redesign the parking lot to accommodate additional vehicles and remediate any environmental contamination caused by any prior uses.

5) Acquisition of clinical equipment such as computerized physician order entry systems and electronic medical record systems, equipment replacement, information system upgrades, radiology equipment, furniture, flooring and wall paper upgrades.

Phase II may include further environmental remediation, site preparation, interior and exterior rehabilitation, and building system repairs, replacements, and upgrades (such as HVAC, plumbing, and electrical).

**EXHIBIT B-3**

**MERCY HOSPITAL'S CAPITAL EXPENDITURES CASH FLOW**

*[See Attached]*

**Fercy Hospital Capital Expenditure Cash Flow 2006-2030**

Inflation Rate 3%

November 28, 2005

Uses of Funds	Costs (2005 Dollars)	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	Total	
<b>TIF ELIGIBLE COSTS</b>																												
Emergency Systems	Med Gas Annunciator Alarm Upgrade	100,000	103,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	103,000
Emergency Systems	Repair/Replace Bulk O2 Pad	130,000	133,900	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	133,900
Emergency Systems	Replace & Upgrade Day Tank for Emergency Generators	70,000	0	74,263	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	74,263
Emergency Systems	Emergency Electrical Transfer Switches (20 switches)	400,000	0	0	0	0	0	0	0	506,708	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	506,708
Interior	Building Facade Repair/Renovation	2,900,000	1,493,500	1,538,105	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3,031,805
Interior	New Radio Main Hospital Building	225,000	0	0	245,864	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	245,864
Interior	Landscape Enhancements including fencing	235,000	0	0	256,791	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	256,791
Interior	Emergency Star Window Replacement	2,000,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2,000,000
Interior	Hospital Wide Sprinkler Installation	4,330,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4,330,000
Interior	Hospital Wide Fire Alarm Upgrade	230,000	0	0	0	1,661,626	1,711,475	1,762,819	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3,435,920
Interior	Fire Damper Replacements (60 Dampers)	180,000	0	0	0	266,633	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	266,633
VAC	Boiler Control Replacements/Upgrade (4 boilers)	180,000	0	0	202,592	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	202,592
VAC	Install Final Filters - all Air handlers for 90% efficiency per IDPH	570,000	0	169,744	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	169,744
VAC	Cooling Tower Repairs	220,000	0	0	0	0	0	0	0	743,721	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	743,721
VAC	Chill Water Pump (3)	135,000	0	0	0	255,040	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	255,040
VAC	Boiler Room Monitoring Annunciator & Controls	250,000	0	0	0	0	0	166,033	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	166,033
VAC	Air Handling Units - Outside Air Damper Replacements	150,000	0	0	0	0	0	0	0	326,193	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	326,193
VAC	Air Handling Units Replacement #2 and 11	1,000,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1,000,000
VAC	(2) Carrier Chiller Replacement - #1 & #2 (\$500K ea)	1,000,000	0	0	0	0	0	0	1,266,770	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1,266,770
VAC	Water Softeners	85,000	0	0	0	98,538	597,026	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	695,564
VAC	Boiler Replacements (4)	1,000,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1,000,000
VAC	Cooling Tower Replacements	1,500,000	0	0	0	0	0	0	0	0	0	1,384,234	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1,384,234
VAC	Passenger Elevator Safety Beams	50,000	0	0	0	0	0	0	0	0	1,957,160	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1,957,160
VAC	Data Center improvements (KVM, Power, security)	100,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	100,000
VAC	Robotic Cells for 10 Surgical Suites	120,000	0	0	0	0	0	0	0	0	0	134,392	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	134,392
VAC	Building automated control replacement	180,000	0	0	0	139,113	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	139,113
VAC	Passenger elevator upgrade	135,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	135,000
VAC	Vacuum Pump replacement	180,000	0	0	0	0	0	0	0	0	0	176,144	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	176,144
VAC	Motor Control & Bucket Replacement	180,000	0	0	0	208,669	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	208,669
VAC	Overhead Paging System	135,000	0	0	0	0	0	221,377	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	221,377
Rehabilitation of Patient Care/Labs	Rehabilitation of 1st floor, SICU, Surgery	2,000,000	0	0	0	0	0	0	0	176,144	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	176,144
Rehabilitation of Patient Care/Labs	Rehabilitation of 2nd floor	1,000,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1,000,000
Rehabilitation of Patient Care/Labs	Rehabilitation of 3rd floor - Mother/Baby	2,500,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2,500,000
Rehabilitation of Patient Care/Labs	Rehabilitation of 4th floor patient care nursing stations rooms	1,000,000	0	0	0	0	0	1,537,342	1,583,463	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3,120,805
Rehabilitation of Patient Care/Labs	Rehabilitation of 5th floor patient care nursing stations rooms	1,000,000	0	0	0	0	0	0	0	0	0	0	0	0	0	1,343,916	0	0	0	0	0	0	0	0	0	0	0	1,343,916
Rehabilitation of Patient Care/Labs	Rehabilitation of 6th floor patient care nursing stations rooms	1,000,000	0	0	0	0	0	0	0	0	0	0	0	0	0	1,343,916	0	0	0	0	0	0	0	0	0	0	0	1,343,916
Rehabilitation of Patient Care/Labs	Rehabilitation of 7th floor patient care nursing stations rooms	1,000,000	0	0	0	0	0	0	0	0	0	0	0	0	0	1,343,916	0	0	0	0	0	0	0	0	0	0	0	1,343,916
Rehabilitation of Patient Care/Labs	Rehabilitation of 8th floor patient care nursing stations rooms	1,000,000	0	0	0	0	0	0	0	0	0	0	0	0	0	1,304,773	0	0	0	0	0	0	0	0	0	0	0	1,304,773
Rehabilitation of Patient Care/Labs	Rehabilitation of 9th floor patient care nursing stations rooms	1,000,000	0	0	0	0	0	0	0	0	0	0	0	0	0	1,304,773	0	0	0	0	0	0	0	0	0	0	0	1,304,773
Rehabilitation of Patient Care/Labs	Rehabilitation of 10th floor patient care nursing stations rooms	1,000,000	0	0	0	0	0	0	0	0	0	0	0	0	0	1,384,234	0	0	0	0	0	0	0	0	0	0	0	1,384,234
Rehabilitation of Patient Care/Labs	Rehabilitation of 11th floor patient care nursing stations rooms	1,000,000	0	0	0	0	0	0	0	0	0	0	0	0	0	1,384,234	0	0	0	0	0	0	0	0	0	0	0	1,384,234
Rehabilitation of Patient Care/Labs	Rehabilitation of CT Lab	2,000,000	0	0	0	0	0	0	0	1,304,773	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1,304,773
Reconfiguration of Bldg and Site prep for Development	Reconfiguration of 1st floor patient care dept relocations	2,100,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2,100,000
Reconfiguration of Bldg and Site prep for Development	Demolition and Environmental Remediation of Site for Day back of H Lot	845,000	845,000	2,227,890	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2,227,890
Reconfiguration of Bldg and Site prep for Development	Demolition and Environmental Remediation of Site for Day back of H Lot	7,000,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	7,000,000
Reconfiguration of Bldg and Site prep for Development	Environmental Remediation of H Lot	220,000	0	0	0	585,265	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	585,265
<b>TOTAL TIF ELIGIBLE COSTS</b>		<b>44,885,000</b>	<b>1,575,408</b>	<b>4,818,291</b>	<b>592,654</b>	<b>7,787,854</b>	<b>3,383,148</b>	<b>2,368,591</b>	<b>3,687,572</b>	<b>5,899,481</b>	<b>7,528,541</b>	<b>6,921,149</b>	<b>8,689,617</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>54,285,161</b>
<b>COSTS NOT TIF ELIGIBLE</b>																												
Reconfiguration of Bldg and Site prep for Development	Reconfiguration of Parking Lots (E to W)	1,182,553	77,250	1,175,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1,182,553
Reconfiguration of Bldg and Site prep for Development	Additional Parking - Church Lot	612,000	22,836	625,750	0	0	0</																					

**EXHIBIT C**

**TIF-FUNDED IMPROVEMENTS**

<u>Line Item</u>	<u>Cost</u>
Hospital Rehabilitation	\$43,627,000
Exterior, Building Reconfiguration & Site Prep For Development	\$3,073,000
Land Acquisition - Parking Lot H	\$7,000,000
<u>Environmental Remediation - Parking Lot H</u>	<u>\$585,000</u>
Sub-Total	\$54,285,000
<u>Other Estimated Future TIF Eligible Costs</u>	<u>\$6,612,431</u>
<b>TOTAL</b>	<b>\$60,897,431</b>

## EXHIBIT D

### REDEVELOPMENT PLAN

*26<sup>th</sup> And King Drive Redevelopment Project Area*

*Tax Increment Finance District  
Eligibility Study, Redevelopment Plan And Project*

*July 28, 2005.*

1.

#### *Executive Summary.*

In May of 2005, S. B. Friedman & Company was engaged to conduct a Tax Increment Financing Eligibility Study (the "Eligibility Study") for the proposed 26<sup>th</sup> and King Drive Redevelopment Project Area. This report details the eligibility factors found within the proposed 26<sup>th</sup> and King Drive Redevelopment Project Area in support of its designation as a "conservation area" within the definitions set forth in the Illinois Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1, et seq., as amended (the "Act"), and thus in support of its designation as the 26<sup>th</sup>

and King Drive Redevelopment Project Area (the "26<sup>th</sup> and King Drive R.P.A." or "R.P.A."). In addition, since the Eligibility Study has determined that the R.P.A. qualifies as a conservation area, this report also contains the Redevelopment Plan and Project (the "Redevelopment Plan" or "Redevelopment Plan and Project") for the 26<sup>th</sup> and King Drive R.P.A.

The 26<sup>th</sup> and King Drive R.P.A. is located within the near south side community area ("Community Area") of the City of Chicago and encompasses the Mercy Hospital Campus. The R.P.A. is generally bounded by 25<sup>th</sup> Street on the north, 26<sup>th</sup> Street on the south, Dr. Martin Luther King, Jr. Drive on the east and the alley west of Michigan Avenue of the west. The R.P.A. is regular in shape, consists of thirteen (13) tax parcels on two (2) blocks and is located wholly within the City of Chicago.

#### Determination Of Eligibility.

This Eligibility Study concludes that the 26<sup>th</sup> and King Drive R.P.A. is eligible for Tax Increment Financing ("T.I.F.") designation as a "conservation area" because fifty percent (50%) or more of the structures in the area are thirty-five (35) years in age or older, and because the following five (5) eligibility factors have been found to be present to a meaningful extent and reasonably distributed throughout the R.P.A.:

1. deterioration;
2. inadequate utilities;
3. excessive vacancies;
4. obsolescence; and
5. deleterious land-use/layout.

#### Redevelopment Plan, Goal, Objectives And Strategies.

**Goal.** The overall goal of the Redevelopment Plan is to reduce or eliminate the conditions that qualify the 26<sup>th</sup> and King Drive R.P.A. as a conservation area and to provide the mechanisms necessary to support public and private development and improvements in the R.P.A.. This goal is to be achieved through an integrated and comprehensive strategy that leverages public resources to stimulate additional private investment.

**Objectives.** Eight (8) broad objectives support the overall goal of area-wide revitalization of the 26<sup>th</sup> and King Drive R.P.A.. These include:

1. provide resources for the rehabilitation, modernization and/or expansion of the Mercy Hospital;

2. facilitate the redevelopment of the eastern half of the existing Mercy Hospital Campus by providing resources for site assembly and preparation, including demolition and environmental cleanup, where necessary;
3. provide public infrastructure where needed, including new streets, underground sewer and water systems, sidewalks, alleys and other public improvements in order to create a physical environment that is conducive to private development;
4. support residential development that accommodates a diverse economic and demographic mix of residents, including the development of new affordable housing;
5. provide adequate on- and off-street parking for visitors and residents within the R.P.A.;
6. provide opportunities for women-owned, minority-owned and locally-owned businesses to share in permanent and construction job opportunities associated with the redevelopment of the 26<sup>th</sup> and King Drive R.P.A.;
7. support job training and welfare to work programs and increase employment opportunities for area residents; and
8. provide daycare assistance as necessary to support the employees of the Mercy Hospital.

**Strategies.** These objectives will be implemented through (4) four specific and integrated strategies. These include:

1. **Facilitate Property Assembly, Demolition And Site Preparation.**

Financial assistance may be provided to private developers seeking to acquire land and assemble and prepare sites in order to undertake projects in support of this Redevelopment Plan and Project.

To meet the goals of this Redevelopment Plan and Project, the City may acquire and assemble property throughout the R.P.A.. Land assemblage by the City may be by purchase, exchange, donation, lease, eminent domain, through the Tax Reactivation program or other programs and may be for the purpose of (a) sale, lease or conveyance to private developers, or (b) sale, lease, conveyance or dedication for the construction of public improvements or facilities. Site preparation may include such preparatory work as demolition of existing improvements and environmental remediation, where appropriate. Furthermore, the City may require

written redevelopment agreements with developers before acquiring any properties. As appropriate, the City may devote acquired property to temporary uses until such property is scheduled for disposition and development.

In connection with the City exercising its powers to acquire real property, including the exercise of the power of eminent domain, under the Act in implementing this Redevelopment Plan and Project, the City will follow its customary procedures of having each such acquisition recommended by the Community Development Commission (or any successor commission) and authorized by the City Council of the City. Acquisition of such real property as may be authorized by the City Council does not constitute a change in the nature of this Plan. Relocation assistance may be provided to facilitate redevelopment of portions of the R.P.A. and to meet other City objectives. Businesses or households legally occupying properties to be acquired by the City may be provided with relocation advisory and/or financial assistance as determined by the City.

2. **Implement Public Improvements.** A series of public improvements throughout the 26<sup>th</sup> and King Drive R.P.A. may be designed and implemented to help define and create an identity for the area, prepare sites for anticipated private investment and create a more conducive environment for private development. Public improvements that are implemented with T.I.F. assistance are intended to complement and not replace existing funding sources for public improvements in the R.P.A.

These improvements may include improvement or development of new streets, streetscaping, street and sidewalk lighting, alleyways, underground water and sewer infrastructure, parks or open space and other public improvements consistent with the Redevelopment Plan and Project. These public improvements may be completed pursuant to redevelopment agreements with private entities or intergovernmental agreements with other public entities, and may include the construction, rehabilitation, renovation or restoration of public improvements on one (1) or more parcels.

3. **Encourage Private Sector Activities And Support Rehabilitation Of Medical Facilities.** Through the creation and support of public-private partnerships, or through written agreements, the City may provide financial and other assistance to encourage the private sector, including local property owners, to undertake rehabilitation and redevelopment projects and other improvements, in addition to programming such as job training and retraining, that are consistent with the goals of this Redevelopment Plan and Project, including the rehabilitation of Mercy Hospital.

The City may enter into redevelopment agreements or intergovernmental agreements with private entities or public entities to construct, rehabilitate, renovate or restore private or public improvements on one (1) or several parcels (collectively referred to as "Redevelopment Projects").

The City requires that developers who receive T.I.F. assistance for market-rate housing set aside twenty percent (20%) of the units to meet affordability criteria established by the City's Department of Housing or any successor agency. Generally, this means that affordable for-sale housing units should be priced at a level that is affordable to persons earning no more than one hundred percent (100%) of the area median income, and affordable rental units should be affordable to persons earning no more than sixty percent (60%) of the area median income. T.I.F. funds can also be used to pay for up to fifty percent (50%) of the cost of construction or up to seventy-five percent (75%) of interest costs for new housing units to be occupied by low-income and very low-income households as defined in Section 3 of the Illinois Affordable Housing Act.

4. Develop Vacant And Underutilized Sites.

The redevelopment of vacant and underutilized properties within the 26<sup>th</sup> and King Drive R.P.A. is expected to stimulate private investment and increase the overall taxable value of properties within the R.P.A.. Development of vacant and/or underutilized sites is anticipated to have a positive impact on other properties beyond the individual project sites.

Required Findings.

The conditions required under the Act for the adoption of the Eligibility Study and Redevelopment Plan and Project are found to be present within the 26<sup>th</sup> and King Drive R.P.A.

1. The R.P.A. has not been subject to growth and development through investment by private enterprise or not-for-profit sources. This lack of investment is evidenced by the fact that the hospital has approximately Sixty-five Million Dollars (\$65,000,000) in deferred maintenance and facility rehabilitation and improvement needs, as outlined in Mercy Hospital's capital improvement budget.

Mercy Hospital has been and will continue to be unable to make significant investments in its facility because it is a not-for-profit hospital which relies heavily on state and federal government funding and is a Disproportionate Share Hospital as defined by the State, meaning that it serves a high proportion of Medicaid patients. Medicaid patients account for forty-three percent (43%) of all Mercy patients. Both of these factors limit the revenues of the hospital and the dollars available for facility improvements.

In addition, over the years, three (3) of the four (4) buildings have fallen into disuse and have become vacant. These properties have remained vacant primarily because the cost required to rehabilitate the buildings to modern standards cannot be supported by the private market. The improvements required to bring the buildings to modern standards are extensive, with significant renovations reportedly required to make the buildings marketable. The current hospital operations result in excess land that could be made available for development. However, the current level of infrastructure serving the site is insufficient to support private market redevelopment.

2. Without the support of public resources, the redevelopment objectives of the 26<sup>th</sup> and King Drive R.P.A. will most likely not be realized. T.I.F. assistance may be used to fund rehabilitation, land assembly, site preparation, infrastructure improvement and expansions to public facilities. Without the creation of the 26<sup>th</sup> and King Drive R.P.A., these types of projects are not likely to occur. Due to Mercy Hospital's mission of serving the economically and socially disadvantaged, it is unlikely that the hospital will have the resources available to upgrade and modernize its facility in the future. In addition, the site preparation and public infrastructure that is necessary to facilitate the redevelopment of the obsolete eastern portion of the campus are so extensive that it would most likely not be able to be absorbed by the private market on its own without public assistance.
3. The 26<sup>th</sup> and King Drive R.P.A. includes only the contiguous real property that is expected to substantially benefit from the proposed Redevelopment Plan and Project improvements.
4. The proposed land uses described in this Redevelopment Plan and Project will be approved by the Chicago Plan Commission prior to its adoption by the City Council.

2.

### *Introduction.*

#### **The Study Area.**

This document serves as the Eligibility Study and Redevelopment Plan and Project for the 26<sup>th</sup> and King Drive Redevelopment Project Area. The 26<sup>th</sup> and King Drive R.P.A. is located within south side community area of the City of Chicago (the

"City"), in Cook County (the "County"). In May 2005, S. B. Friedman & Company was engaged to conduct a study of certain properties in this neighborhood to determine whether the area containing these properties would qualify for status as a "blighted area" and/or "conservation area" under the Act.

The Eligibility Study and Plan summarizes the analyses and findings of S.B. Friedman & Company's work, which, unless otherwise noted, is the responsibility of S. B. Friedman & Company. The City is entitled to rely on the findings and conclusions of this Eligibility Study and Plan in designating the 26<sup>th</sup> and King Drive Redevelopment Project Area as a redevelopment project and under the Act. S. B. Friedman & Company has prepared this Eligibility Study and Plan with the understanding that the City would rely: 1) on the findings and conclusions of the Eligibility Study and Plan in proceeding with the designation of the 26<sup>th</sup> and King Drive Redevelopment Project Area and the adoption and implementation of the Plan, and 2) on the fact that S.B. Friedman & Company has obtained the necessary information to conclude that the 26<sup>th</sup> and King Drive Redevelopment Project Area can be designated as a redevelopment project area under the Act and that the Eligibility Study and Plan will comply with the Act.

The community context of the 26<sup>th</sup> and King Drive R.P.A. is detailed on Map 1. The 26<sup>th</sup> and King Drive R.P.A. is located within the near south side community area ("Community Area") of the City of Chicago and encompasses the Mercy Hospital Campus. The R.P.A. is generally bounded by 25<sup>th</sup> Street on the north, 26<sup>th</sup> Street on the south, Dr. Martin Luther King, Jr. Drive on the east and the alley west of Michigan Avenue on the west. The R.P.A. is regular in shape, consists of thirteen (13) tax parcels on two (2) blocks and is located wholly within the City of Chicago.

Map 2 details the boundary of the 26<sup>th</sup> and King Drive R.P.A., which includes only the contiguous real property that is expected to substantially benefit from the Redevelopment Plan and Project improvements discussed herein.

Appendix 1 contains a legal description of the 26<sup>th</sup> and King Drive R.P.A.

The Eligibility Study covers events and conditions that exist and that were determined to support the designation of the 26<sup>th</sup> and King Drive R.P.A. as a "conservation area" under the Act at the completion of our research on July 1, 2005 and not thereafter. Events or conditions, such as governmental actions and additional developments occurring after that date are excluded from the analysis. The improved parcels suffer from deterioration of buildings, infrastructure and parking structures below contemporary code standards, excessive vacancy, inadequate utilities and lack of growth and investment. Without a comprehensive approach to address these issues, the R.P.A. is not likely to benefit from future development opportunities. The Redevelopment Plan and Project address these issues by providing the means to facilitate private development and rehabilitation, and the construction of public infrastructure. These improvements will benefit all

of the property within the R.P.A. by alleviating conditions qualifying the R.P.A. as a conservation area.

#### History Of Community Area.<sup>(1)</sup>

Mercy Hospital and the proposed 26<sup>th</sup> and King Drive R.P.A. are located within the near south side community area which is roughly bounded by Roosevelt Road to the north, 26<sup>th</sup> Street to the south, Lake Michigan to the east, the south branch of the Chicago River and Clark Street to the west.

The near south side, formerly a lakeside sand ridge, developed following the influx of Germans, Irish and Scandinavians who located in the community to work first on the Illinois and Michigan Canal in 1836 and subsequently in the lumber district along the south branch of the Chicago River. Railroad development in the community in the 1850s brought related industries attracting additional workers to the area as did horsecar lines which were extended from the Loop. The community was incorporated into the City of Chicago in 1853.

Wealthy families, including the Armours, Pullmans and Files built mansions in the northern half of the near south side taking advantage of its proximity to the expanding Chicago business district following the Civil War. The Fire of 1871 transformed the community as old mansions were converted to rooming houses and commercial uses serving as temporary locations for Loop businesses destroyed by the Fire.

Further development occurred upon conversion of the horsecar lines to cable cars in the 1880s especially along Cottage Grove, State Street and Michigan Avenue. The character of the community began changing in the 1890s with the development of the elevated railroad, apartment buildings and hotels in anticipation of the 1893 Columbian Exposition. Printing warehouses and automobile dealerships began locating in the community in the early teens and 1920s, forced out of the Loop by expanding retail and office developments. Subsequent years brought several important developments in the near south side community including the museum campus, lakefront park expansions, Meigs Field and McCormick Place.

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<sup>(1)</sup> Information on the history of the near south side community areas was derived from the *Local Community Fact Book of Chicago Metropolitan Area 1990*, edited by the Chicago Fact Book Consortium (copyright 1995, Board of Trustees of the University of Illinois) at pages 118 -- 119.

Major demographic shifts began taking place after World War I and immediately after World War II as African-Americans began migrating to the area in search of low rents. Area population declined as older Irish and German residents moved to other communities. African-Americans faced housing discrimination which forced them into the near south side resulting in a dramatic demographic shift -- the African-American population in the community increased from twenty-five percent (25%) of the population in the 1920s, 1930s and 1940s to ninety-four percent (94%) by 1990. A concentration of poverty resulted leading to slum conditions. Public housing developments subsequently replaced slums in urban renewal efforts in the 1950s and 1960s resulting in further concentrated poverty and isolation. At the same time, the number of housing units continued declining and a third of the population was lost since the peak in 1950.

During the real estate development upswing in the 1990s, renewed interest in the area south of the Loop surged as the west and north sides of Chicago continued transforming and building out. Phase II of Dearborn Park brought middle-class families and higher-priced housing south of Roosevelt Road. The first phase of Central Station began in the early 1990s on the former Illinois Central rail yards with three thousand five hundred (3,500) residential units planned. Former industrial buildings along Wabash and Michigan have been converted to loft apartments, and Printers Row has recovered from R.R. Donnelley's move in the early 1990s with loft conversions and commercial development.

Recently, several colleges in the area have developed student housing. Public housing developments are slowly being cleared and sites are being converted to mixed-income communities. Large tracts of vacant land continue to attract additional proposals. The near south side appears to be in the path of redevelopment as the South Loop transforms with the development of market rate housing, restaurants and retail.

#### History Of Mercy Hospital.

Mercy Hospital was established in 1852 and moved to its current location at 26<sup>th</sup> and King Drive in 1863. From its inception, Mercy Hospital has had a commitment to serving the economically and socially disadvantaged in its immediate neighborhood. Today the hospital continues to provide a broad spectrum of health care services to all the diverse communities it serves. It is licensed for four hundred seventy-seven (477) beds, has three hundred twenty-one (321) available beds and currently one hundred sixty-five (165) staffed beds.

The hospital has six (6) ambulatory care facilities in the metropolitan Chicago area and six (6) occupational health facilities under the name of Mercy Works. As a teaching hospital, Mercy has an affiliation with the medical schools of the University of Illinois and Loyola University and trains over one hundred (100) residents per

year. Mercy also has a family health center, which offers clinical and prescription services to the indigent within the surrounding communities.

Mercy Hospital's mission of serving the economically and socially disadvantaged has made it difficult for the hospital to improve and modernize its buildings, equipment and facilities. Over the years, three (3) of the four (4) buildings, all on the eastern half of the Mercy campus, have fallen into disuse and are either currently vacant or will be vacant by the time this plan is considered by the City of Chicago Community Development Commission ("C.D.C."). These include: 1) the M.R.I. Building, which at one time housed a 1.5 Telsa M.R.I. imaging unit that was decommissioned and vacated in 2002 due to technological obsolescence, 2) the Research Building which is a ninety-three (93) year old building that has been closed for four (4) years due to significant interior deterioration which has made it uninhabitable, and 3) the Interns/Resident Building which contains forty (40) one (1) and two (2) bedroom apartments and was used for temporary interns/residents housing. The Interns/Resident Building has fallen into disuse due to the poor condition of the apartments which have not been restored/renovated since the building was built in 1964 and because more of the hospital's resident staff now originate from the Chicago area and choose to live elsewhere. There are no current leases in this building. The units currently occupied by residents temporarily living in the facility will be leaving the building by July 31, 2005. At this time the building will be entirely vacant.

The 26<sup>th</sup> and King Drive R.P.A. is critical to provide the resources necessary to rehabilitate and modernize the hospital, as well as to construct the public infrastructure necessary to facilitate private redevelopment of the obsolete eastern half of the property no longer required for hospital operations.

#### Existing Land-Use.

The existing land-use of the entire proposed 26<sup>th</sup> and King Drive R.P.A. is institutional and consists of the Mercy Hospital Campus. The campus includes the main hospital building, the vacant research building, the vacant M.R.I. Building, and a residents/interns building, along with surface parking lots surrounding the buildings. The existing land-use is shown on Map 3.

#### Historically Significant Structures.

S. B. Friedman & Company obtained data from the Chicago Historic Resources Survey (the "C.H.R.S.") to identify architecturally and/or historically significant buildings located within the 26<sup>th</sup> and King Drive R.P.A.. The C.H.R.S. identifies over seventeen thousand (17,000) Chicago properties and contains information on buildings that may possess important architectural and/or historical significance.

No structures located within the boundaries of the 26<sup>th</sup> and King Drive R.P.A. are identified in the C.H.R.S.

3.

*Eligibility Analysis.*

**Provisions Of The Illinois Tax Increment Allocation Redevelopment Act.**

Based upon the conditions found within the 26<sup>th</sup> and King Drive R.P.A. at the completion of S. B. Friedman & Company's research, it has been determined that the 26<sup>th</sup> and King Drive R.P.A. meets the eligibility requirements of the Act as a conservation area. The following text outlines the provisions of the Act to establish eligibility.

Under the Act, two (2) primary avenues exist to establish eligibility for an area to permit the use of tax increment financing for area redevelopment: declaring an area as a "blighted area" and/or a "conservation area".

"Blighted areas" are those improved or vacant areas with blighting influences that are impacting the public safety, health, morals or welfare of the community, and are substantially impairing the growth of the tax base in the area. "Conservation areas" are those improved areas which are deteriorating and declining and soon may become blighted if the deterioration is not abated.

The statutory provisions of the Act specify how a district can be designated as a "conservation" and/or "blighted area" district based upon an evidentiary finding of certain eligibility factors listed in the Act. The eligibility factors for each designation are identical for improved property. A separate set of factors exists for the designation of vacant land as a "blighted area". There is no provision for designating vacant land as a conservation area.

**Factors For Improved Property.**

For improved property to constitute a "blighted area", a combination of five (5) or more of the following thirteen (13) eligibility factors listed at 65 ILCS 5/11-74.4-3 (a) and (b) must meaningfully exist and be reasonably distributed throughout the R.P.A.. "Conservation areas" must have a minimum of fifty percent (50%) of the total structures within the area aged thirty-five (35) years or older, plus a combination of three (3) or more of the thirteen (13) eligibility factors which are

detrimental to the public safety, health, morals or welfare and which could result in such an area becoming a blighted area.

#### **Dilapidation.**

An advanced state of disrepair or neglect of necessary repairs to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

#### **Obsolescence.**

The condition or process of falling into disuse. Structures have become ill-suited for the original use.

#### **Deterioration.**

With respect to buildings, defects including, but not limited to, major defect in the secondary building components such as doors, windows, porches, gutters and downspouts and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off-street parking and surface storage areas evidence deterioration including but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material and weeds protruding through paved surfaces.

#### **Presence Of Structures Below Minimum Code Standards.**

All structures that do not meet the standards of zoning, subdivision, building, fire and other governmental codes applicable to property, but not including housing and property maintenance codes.

#### **Illegal Use Of Individual Structures.**

The use of structures in violation of the applicable federal, state or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

#### **Excessive Vacancies.**

The presence of buildings that are unoccupied or underutilized and that represent an adverse influence on the area because of the frequency, extent or duration of the vacancies.

#### Lack Of Ventilation, Light Or Sanitary Facilities.

The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke or other noxious airborne materials. Inadequate natural light and ventilation means the absence of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

#### Inadequate Utilities.

Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete or in disrepair, or (iii) lacking within the redevelopment project area.

#### Excessive Land Coverage And Overcrowding Of Structures And Community Facilities.

The over-intensive use of property and the crowding of buildings and accessory facilities onto a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: (i) the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present-day standards of development for health and safety and (ii) the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one (1) or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right-of-way, lack of reasonably required off-street parking or inadequate provision for loading and service.

#### Deleterious Land-Use Or Layout.

The existence of incompatible land-use relationships, buildings occupied by inappropriate mixed uses, or uses considered to be noxious, offensive or unsuitable for the surrounding area.

#### Environmental Contamination.

The proposed redevelopment project area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste substances, or underground storage tanks required by State or Federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

#### Lack Of Community Planning.

The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land-use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

#### Lack Of Growth In Equalized Assessed Value.

The total equalized assessed value of the proposed redevelopment project area has declined for three (3) of the last five (5) calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for three (3) of the last five (5) calendar years for which information is available or is increasing at an annual rate that is less than the *Consumer Price Index for All Urban Consumers* published by the United States Department of Labor or successor agency for three (3) of the last five (5) calendar years prior to the year in which the redevelopment project area is designated.

#### Factors For Vacant Land.

Under the provisions of the "blighted area" section of the Act, for vacant land to constitute a "blighted area", a combination of two (2) or more of the following six (6) factors must be identified as being present to a meaningful extent and reasonably distributed which act in combination to impact the sound growth in tax base for the proposed district.

**Obsolete Platting Of Vacant Land:**

Parcels of limited or narrow size or configurations of parcels of irregular size or shape that would be difficult to develop on a planned basis and in a manner compatible with contemporary standards and requirements, or platting that failed to create rights-of-ways for streets or alleys or that created inadequate right-of-way widths for streets, alleys, or other public rights-of-way or that omitted easements for public utilities.

**Diversity Of Ownership.**

Diversity of ownership is when adjacent properties are owned by multiple parties. When diversity of ownership of parcels of vacant land is sufficient in number to retard or impede the ability to assemble the land for development, this factor applies.

**Tax And Special Assessment Delinquencies.**

Tax and special assessment delinquencies exist or the property has been the subject of tax sales under the Property Tax Code within the last five (5) years.

**Deterioration Of Structures Or Site Improvements In Neighboring Areas Adjacent To The Vacant Land.**

Evidence of structural deterioration and area disinvestment in blocks adjacent to the vacant land may substantiate why new development had not previously occurred on the vacant parcels.

**Environmental Contamination.**

The area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean-up of hazardous waste, hazardous substances, or underground storage tanks required by State or Federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

**Lack Of Growth In Equalized Assessed Value.**

The total equalized assessed value of the proposed redevelopment project area has declined for three (3) of the last five (5) calendar years prior to the year in

which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for three (3) of the last five (5) calendar years for which information is available or is increasing at an annual rate that is less than the *Consumer Price Index for All Urban Consumers* published by the United States Department of Labor or successor agency for three (3) of the last five (5) calendar years prior to the year in which the redevelopment project area is designated.

Additionally, under the "blighted area" section of the Act, eligibility may be established for those vacant areas that would have qualified as a blighted area immediately prior to becoming vacant. Under this test for establishing eligibility, building records may be reviewed to determine that a combination of five (5) or more of the thirteen (13) "blighted area" eligibility factors for improved property listed above were present immediately prior to demolition of the area's structures.

The vacant "blighted area" section includes six (6) other tests for establishing eligibility but none of these are relevant to the conditions within the 26<sup>th</sup> and King Drive R.P.A.

#### Methodology Overview And Determination Of Eligibility.

Analysis of eligibility factors was done through research involving an extensive field survey of all property within the 26<sup>th</sup> and King Drive R.P.A., as well as a review of building and property records. Building and property records include building code violation citations, building permit data, assessor information, and information on the age and condition of sewer and water lines within the study area. Our survey of the area established that there are four (4) primary structures and thirteen (13) tax parcels within the 26<sup>th</sup> and King Drive R.P.A.. Ancillary structures are excluded from this total but were considered in our analysis of eligibility factors at the tax parcel level. A cement block shed located off of the alley along the western edge of the R.P.A. was the only ancillary structure identified in our survey.

The 26<sup>th</sup> and King Drive R.P.A. was examined for qualification factors consistent with either the "blighted area" or "conservation area" requirements of the Act. Based upon these criteria, the property within the 26<sup>th</sup> and King Drive R.P.A. qualifies for designation as a "conservation area" as defined by the Act.

To arrive at this designation, S. B. Friedman & Company calculated the number of eligibility factors present, and analyzed the distribution of the eligibility factors on a building-by-building and/or parcel-by-parcel basis and analyzed the distribution of the eligibility factors on a block-by-block basis. When appropriate, we calculated the presence of eligibility factors on infrastructure and ancillary properties associated with the structures. The eligibility factors were correlated to buildings using structure-base maps, property files created from field observations,

record searches and field surveys. This information was then graphically plotted on a parcel map of the 26<sup>th</sup> and King Drive R.P.A. to establish the distribution of eligibility factors, and to determine which factors were present to a major extent.

Major factors are used to establish eligibility. These factors are present to a meaningful extent and reasonably distributed throughout the R.P.A.. Minor factors are supporting factors present to a meaningful extent on some of the parcels or on a scattered basis. Their presence suggests that the area is at risk of experiencing more extensive deterioration and disinvestment.

To reasonably arrive at this designation, S. B. Friedman & Company documented the existence of qualifying eligibility factors and confirmed that a sufficient number of factors were present within the 26<sup>th</sup> and King Drive R.P.A. and reasonably distributed.

Although it may be concluded under the Act that the mere presence of the minimum number of the stated factors may be sufficient to make a finding of the R.P.A. as a conservation area, this evaluation was made on the basis that the conservation area factors must be present to an extent that indicates that public intervention is appropriate or necessary. In addition, the conservation area factors must be reasonably distributed throughout the R.P.A. so that non-qualifying areas are not arbitrarily included in the R.P.A. simply because of proximity to areas that qualify as a conservation area.

#### Conservation Area Findings.

As required by the Act, within a conservation area, at least fifty percent (50%) of the buildings must be thirty-five (35) years of age or older, and at least three (3) of the thirteen (13) eligibility factors must be found present to a major extent within the 26<sup>th</sup> and King Drive R.P.A.

Establishing that at least fifty percent (50%) of the 26<sup>th</sup> and King Drive R.P.A. buildings are thirty-five (35) years of age or older is a condition precedent to establishing the area as a conservation area under the Act. Taking into account information obtained from the architectural characteristics of the buildings, building configurations, the reported use of buildings from property records from the Cook County Assessor's office, and the historic development patterns within the community, we have established that of the four (4) buildings located within the 26<sup>th</sup> and King Drive R.P.A., three (3) (seventy-five percent (75%)) are thirty-five (35) years of age or older.

In addition to establishing that 26<sup>th</sup> and King Drive R.P.A. meets the age requirement, our research has revealed that the following five (5) factors are present to a major extent:

1. deterioration;
2. inadequate utilities;
3. excessive vacancies;
4. obsolescence; and
5. deleterious land-use/layout.

Based on the presence of these factors, the R.P.A. meets the requirements of a "conservation area" under the Act. The R.P.A. is not yet blighted, but because of a combination of the factors present the R.P.A. may become a blighted area.

Each of the thirteen (13) parcels within the R.P.A. exhibited deterioration of buildings, infrastructure, and/or cracks in building exteriors, missing or damaged curbs, and cracked paving surfaces. In addition, the area suffers from excessive vacancies. The extent and nature of these vacancies are likely to have negative effects on nearby properties and the future development of the R.P.A.. The condition of underground utilities within the R.P.A. is generally inadequate in that the R.P.A. is serviced by water and sewer facilities that are antiquated, of insufficient capacity, and/or are scheduled for or are overdue for repair/replacement. In addition, three (3) of the buildings covering half of the site are obsolete and the lack of a street network through portions of the site make redevelopment difficult and unlikely without public assistance.

Maps 4A through 4F illustrate the presence and distribution of these eligibility factors on a block-by-block basis within the R.P.A.. The following sections summarize our field research as it pertains to each of the identified eligibility factors found within the 26<sup>th</sup> and King Drive R.P.A.

1. Deterioration.

Of the four (4) structures within the 26<sup>th</sup> and King Drive R.P.A., three (3) exhibited deterioration. Catalogued deterioration included cracked exterior wall surfaces, exposed rebar, evidence of water damage/staining, and corrosion of gutters and down spouts. These are conditions not readily correctable through routine maintenance. Structural deterioration is indicative of an area that is at risk of becoming blighted without direct intervention.

In addition, deterioration was documented for much of the surface infrastructure within the 26<sup>th</sup> and King Drive R.P.A. including sidewalks, parking lots and storage areas. Of the thirteen (13) parcels within the 26<sup>th</sup> and King Drive R.P.A., all

exhibited deterioration. Surface deterioration included cracking, surface depressions, loose paving buckling/depressions and curb crumbling.

Overall, deterioration was considered to be present to a meaningful extent on both of the blocks in the 26<sup>th</sup> and King Drive R.P.A.

## 2. Inadequate Utilities.

A review of the City's water and sewer atlases found that inadequate underground utilities affect all thirteen (13) tax parcels in the 26<sup>th</sup> and King Drive R.P.A.. All of the parcels within the 26<sup>th</sup> and King Drive R.P.A. are served by antiquated sewer and/or water lines. These lines have reached or will have reached their one hundred (100) year service lives sometime during the twenty-three (23) year life of the T.I.F.<sup>(2)</sup> In addition, some water line replacements are required because they are of insufficient size to comply with modern capacity requirements.

Due to the age and condition of the sewer and water lines, inadequate utilities was found to be present to a meaningful extent on both of the blocks within the 26<sup>th</sup> and King Drive R.P.A.

## 3. Excessive Vacancies.

Of the four (4) buildings in the 26<sup>th</sup> and King Drive R.P.A., three (3) exhibited excessive vacancies. The three (3) buildings are located in close proximity to one another adjacent to the heavily traveled Martin Luther King Drive and along 26<sup>th</sup> Street. If they are not addressed, the extent and nature of the vacancies within the 26<sup>th</sup> and King Drive R.P.A. are sufficient to have negative effects on nearby properties and on the future development of the R.P.A.

## 4. Obsolescence.

Functional and/or economic obsolescence affects three (3) of the four (4) buildings within the 26<sup>th</sup> and King Drive R.P.A.. This is evidenced by the fact that these structures have become ill-suited for their original use and have fallen into disuse and are currently vacant.

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<sup>(2)</sup> The City of Chicago Department of Water Management defines the projected service life as one hundred (100) years.

The MRI building was vacated upon decommissioning the technologically obsolete 1.5 Tesla MRI imaging unit, housed within, in 2002. The Research Building is a ninety-three (93) year old building that has been closed for four (4) years due to significant interior deterioration which has made it uninhabitable. The Interns/Residents Building contains forty (40) one (1) and two (2) bedroom apartments which were once used for temporary interns/residents housing. This building has now fallen into disuse due to the poor condition of the apartments, which have not been restored/renovated since the building was built in 1964, and because more of the hospital's resident staff now originate from the Chicago area and choose to live elsewhere. The units currently occupied by residents temporarily living in the facility will be leaving the building by July 31, 2005. At this time the building will be entirely vacant.

Based on these conditions, obsolescence was found to be present to a meaningful extent on one (1) of the two (2) blocks within the 26<sup>th</sup> and King Drive R.P.A.

#### 5. Deleterious Land-Use/Layout.

Deleterious Layout was found to be present on all of the thirteen (13) parcels and both blocks comprising the 26<sup>th</sup> and King Drive R.P.A.. Two (2) of the parcels are located east of the main hospital site and contain the three (3) vacant hospital buildings. The large size of these parcels and lack of road network make it difficult and unlikely to be redeveloped without public assistance. The remaining eleven (11) parcels include the Mercy Hospital site and its ancillary parking. Significant changes to the configuration of the parking are required to support hospital operations as well as improve access to the parking areas and the buildings.

4.

#### *Redevelopment Plan And Project.*

#### Redevelopment Needs Of The 26<sup>th</sup> And King Drive R.P.A.

The existing land-use pattern and physical conditions in the 26<sup>th</sup> and King Drive R.P.A. suggest three (3) redevelopment needs for the area:

1. rehabilitation and modernization of the main hospital building;
2. site preparation and demolition; and

3. new streets and other public infrastructure improvements.

The Redevelopment Plan and Project identifies the tools that the City will use to guide redevelopment in the 26<sup>th</sup> and King Drive R.P.A., to create, promote and sustain a vibrant mixed use community.

The goals, objectives and strategies discussed below have been developed to address these needs and to facilitate the sustainable redevelopment of the 26<sup>th</sup> and King Drive R.P.A.. The proposed public improvements outlined in the Redevelopment Plan and Project will help to create an environment conducive to private investment and redevelopment within the 26<sup>th</sup> and King Drive R.P.A.. To support specific projects and encourage future investment in the R.P.A., public resources, including tax increment financing, may be used to: facilitate property assembly; demolition; site preparation; and/or rehabilitation and improve or repair R.P.A. public facilities and/or infrastructure. In addition, tax increment financing may be used to subsidize developer interest costs related to redevelopment projects.

#### Goals, Objectives And Strategies.

Goals, objectives and strategies are designed to address the need for redevelopment within the overall framework of the Redevelopment Plan and Project for the use of anticipated tax increment funds generated within the 26<sup>th</sup> and King Drive R.P.A.

#### Goal.

The overall goal of the Redevelopment Plan is to reduce or eliminate the conditions that qualify the 26<sup>th</sup> and King Drive R.P.A. as a conservation area and to provide the mechanisms necessary to support public and private development and improvements in the R.P.A.. This goal is to be achieved through an integrated and comprehensive strategy that leverages public resources to stimulate additional private investment.

#### Objectives.

Eight (8) broad objectives support the overall goal of area-wide revitalization of the 26<sup>th</sup> and King Drive R.P.A.. These include:

1. provide resources for the rehabilitation, modernization and/or expansion of the Mercy Hospital;

2. facilitate the redevelopment of the eastern half of the existing Mercy Hospital Campus by providing resources for site assembly and preparation, including demolition and environmental cleanup, where necessary;
3. provide public infrastructure where needed, including new streets, underground sewer and water systems, sidewalks, alleys and other public improvements in order to create a physical environment that is conducive to private development;
4. support residential development that accommodates a diverse economic and demographic mix of residents, including the development of new affordable housing;
5. provide adequate on- and off-street parking for visitors and residents within the R.P.A.;
6. provide opportunities for women-owned, minority-owned and locally-owned businesses to share in permanent and construction job opportunities associated with the redevelopment of the 26<sup>th</sup> and King Drive R.P.A.;
7. support job training and welfare to work programs and increase employment opportunities for area residents; and
8. provide daycare assistance as necessary to support the employees of the Mercy Hospital.

#### Strategies.

These objectives will be implemented through four (4) specific and integrated strategies. These include:

1. Facilitate Property Assembly, Demolition And Site Preparation.

Financial assistance may be provided to private developers seeking to acquire land and assemble and prepare sites in order to undertake projects in support of this Redevelopment Plan and Project.

To meet the goals of this Redevelopment Plan and Project, the City may acquire and assemble property throughout the R.P.A.. Land assemblage by the City may be by purchase, exchange, donation, lease, eminent domain, through the Tax Reactivation Program or other programs and may be for the purpose of (a) sale, lease or conveyance to private developers; or (b) sale, lease, conveyance or

dedication for the construction of public improvements or facilities. Site preparation may include such preparatory work as demolition of existing improvements and environmental remediation, where appropriate. Furthermore, the City may require written redevelopment agreements with developers before acquiring any properties. As appropriate, the City may devote acquired property to temporary uses until such property is scheduled for disposition and development.

In connection with the City exercising its powers to acquire real property, including the exercise of the power of eminent domain, under the Act in implementing this Redevelopment Plan and Project, the City will follow its customary procedures of having each such acquisition recommended by the Community Development Commission (or any successor commission) and authorized by the City Council of the City. Acquisition of such real property as may be authorized by the City Council does not constitute a change in the nature of this Plan. Relocation assistance may be provided to facilitate redevelopment of portions of the R.P.A., and to meet other City objectives. Businesses or households legally occupying properties to be acquired by the City may be provided with relocation advisory and/or financial assistance as determined by the City.

## 2. Implement Public Improvements.

A series of public improvements throughout the 26<sup>th</sup> and King Drive R.P.A. may be designed and implemented to help define and create an identity for the area, prepare sites for anticipated private investment, and create a more conducive environment for private development. Public improvements that are implemented with T.I.F. assistance are intended to complement and not replace existing funding sources for public improvements in the R.P.A.

These improvements may include improvement or development of streetscaping, street and sidewalk lighting, alleyways, underground water and sewer infrastructure parks or open space, and other public improvements consistent with the Redevelopment Plan and Project. These public improvements may be completed pursuant to redevelopment agreements with private entities or intergovernmental agreements with other public entities, and many include the construction, rehabilitation, renovation, or restoration of public improvements on one (1) or more parcels.

## 3. Encourage Private Sector Activities And Support New Development.

Through the creation and support of public-private partnerships, or through written agreements, the City may provide financial and other assistance to encourage the private sector, including local property owners, to undertake

rehabilitation and redevelopment projects and other improvements that are consistent with the goals of this Redevelopment Plan and Project.

The City may enter into redevelopment agreements or intergovernmental agreements with private entities or public entities to construct, rehabilitate, renovate, or restore private or public improvements on one (1) or several parcels (collectively referred to as "Redevelopment Projects").

The City requires that developers who receive T.I.F. assistance for market-rate housing set aside twenty percent (20%) of the units to meet affordability criteria established by the City's Department of Housing or any successor agency. Generally, this means that affordable for-sale housing units should be priced at a level that is affordable to persons earning no more than one hundred percent (100%) of the area median income, and affordable rental units should be affordable to persons earning no more than sixty percent (60%) of the area median income. T.I.F. funds can also be used to pay for up to fifty percent (50%) of the cost of construction or up to seventy five percent (75%) of interest costs for new housing units to be occupied by low-income and very low-income households as defined in Section 3 of the Illinois Affordable Housing Act.

#### 4. Develop Vacant And Underutilized Sites.

The redevelopment of vacant and underutilized properties within the 26<sup>th</sup> and King Drive R.P.A. is expected to stimulate private investment and increase the overall taxable value of properties within the R.P.A. Development of vacant and/or underutilized sites is anticipated to have a positive impact on other properties beyond the individual project sites.

These activities are representative of the types of projects contemplated to be undertaken during the life of the 26<sup>th</sup> and King Drive R.P.A. Market forces are critical to the completion of these projects. Phasing of projects will depend on the interests and resources of both public and private sector parties. Not all projects will necessarily be undertaken. Further, additional projects may be identified throughout the life of the 26<sup>th</sup> and King Drive R.P.A. To the extent that these projects meet the goals, objectives and strategies of this Redevelopment Plan and Project and the requirements of the Act and budget outlined in the next section, these projects may be considered for tax increment funding.

#### Proposed Future Land-Use.

The proposed future land-use of the 26<sup>th</sup> and King Drive R.P.A. reflects the objectives of the Redevelopment Plan and Project, which are to support retention and rehabilitation of Mercy Hospital and to support the redevelopment of the area east of the hospital into a residential neighborhood.

These proposed future land uses are detailed on Map 5. As noted on Map 5, the uses are to be predominant uses for the area indicated, and are not exclusive of any other uses.

#### Assessment Of Housing Impact.

As set forth in the Act, if the redevelopment plan for the redevelopment project area would result in the displacement of residents from ten (10) or more inhabited residential units, or if the redevelopment project area contains seventy-five (75) or more inhabited residential units and a municipality is unable to certify that no displacement will occur, the municipality must prepare a housing impact study and incorporate the study in the redevelopment plan.

As of the July 31, 2005, the R.P.A. will contain no occupied residential units. Therefore, a housing impact study is not required and has not been prepared.

### 5.

#### *Financial Plan.*

#### Eligible Costs.

The various redevelopment expenditures that are eligible for payment or reimbursement under the Act are reviewed below. Following this review is a list of estimated redevelopment project costs that are deemed to be necessary to implement this Redevelopment Plan and Project (the "Redevelopment Project Costs").

Redevelopment project costs include the sum total of all reasonable or necessary costs incurred, estimated to be incurred, or incidental to this Plan pursuant to the Act. Such costs may include, without limitation, the following:

1. costs of studies, surveys, development of plans and specifications, implementation and administration of the Redevelopment Plan and Project including but not limited to, staff and professional service costs for architectural, engineering, legal, financial, planning or other services (excluding lobbying expenses), provided that no charges for professional services are based on a percentage of the tax increment collected;
2. the costs of marketing sites within the R.P.A. to prospective businesses, developers and investors;

3. **property assembly costs, including but not limited to, acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, 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;**
4. **costs of rehabilitation, reconstruction or repair or remodeling of existing public or private buildings, fixtures, and leasehold improvements; and the costs of replacing an existing public building if pursuant to the implementation of a redevelopment project the existing public building is to be demolished to use the site for private investment or devoted to a different use requiring private investment;**
5. **costs of the construction of public works or improvements subject to the limitations in Section 11-74.4-3(q)(4) of the Act;**
6. **costs of job training and retraining projects including the costs of "welfare to work" programs implemented by businesses located within the R.P.A. and such proposals feature a community-based training program which ensures maximum reasonable opportunities for residents of the near south community area with particular attention to the needs of those residents who have previously experienced inadequate employment opportunities and development of job-related skills including residents of public and other subsidized housing and people with disabilities;**
7. **financing costs, including but not limited to, all necessary and incidental expenses related to the issuance of obligations and which may include payment of interest on any obligations issued thereunder including interest accruing during the estimated period of construction of any redevelopment project for which such obligations are issued and for a period not exceeding thirty-six (36) months following completion and including reasonable reserves related thereto;**
8. **to the extent the City by written agreement accepts and approves the same, all or a portion of a taxing district's capital costs resulting from the redevelopment project necessarily incurred or to be incurred within a taxing district in furtherance of the objectives of the Redevelopment Plan and Project;**
9. **relocation costs to the extent that the City determines that relocation costs shall be paid or is required to make payment of relocation costs by federal or state law, or by Section 74.4-3(n)(7) of the Act;**
10. **payment in lieu of taxes as defined in the Act;**

11. costs of job training, retraining, advanced vocational education or career educations, including but not limited to, courses in occupational, semi-technical or technical fields leading directly to employment, incurred by one (1) or more taxing districts, provided that such costs; (i) are related to the establishment and maintenance of additional job training, advanced vocational education or career education programs for persons employed or to be employed by employers located in the R.P.A.; and (ii) when incurred by a taxing districts or taxing districts other than the City are set forth in a written agreement by or among the City and the taxing district or taxing districts, which agreement describes the program to be undertaken including but not limited to, the number of employees to be trained, a description of the training and services to be provided, the number and type of positions available or to be available, itemized costs of the program and sources of funds to pay for the same, and the term of the agreement. Such costs include, specifically, the payment by community college districts of costs pursuant to Sections 3-37, 3-38, 3-40 and 3-40.1 of the Public Community College Act, 110 ILCS 805/3-37, 805/3-38, 805/3-40 and 805/3-40.1, and by school districts of costs pursuant to Sections 10-22.20a and 10-23.3a of the School Code, 105 ILCS 5/10-22.20a and 5/10-23.3a;
12. interest costs incurred by a redeveloper related to the construction, renovation or rehabilitation of a redevelopment project provided that:
  - a. such costs are to be paid directly from the special tax allocation fund established pursuant to the Act;
  - b. such payments in any one (1) year may not exceed thirty percent (30%) of the annual interest costs incurred by the redeveloper with regard to the development project during that year;
  - c. if there are not sufficient funds available in the special tax allocation fund to make the payment pursuant to this provision, then the amounts so due shall accrue and be payable when sufficient funds are available in the special tax allocation fund;
  - d. the total of such interest payments paid pursuant to the Act may not exceed thirty percent (30%) of the total of (i) cost paid or incurred by the redeveloper for the redevelopment project; (ii) redevelopment project costs excluding any property assembly costs and any relocation costs incurred by the City pursuant to the Act;
  - e. for the financing of rehabilitated or new housing for low-income households and very low-income households, as defined in Section 3 of the Illinois Affordable Housing Act, the percentage of

seventy-five percent (75%) shall be substituted for thirty percent (30%) in subparagraphs 12b and 12d above;

13. unless explicitly provided in the Act, the cost of construction of new privately-owned buildings shall not be an eligible redevelopment project cost;
14. an elementary, secondary or unit school district's increased costs attributable to assisted housing units will be reimbursed as provided in the Act;
15. instead of the eligible costs provided for in 12b, 12d and 12e above, the City may pay up to fifty percent (50%) of the cost of construction, renovation and/or rehabilitation of all low- and very low-income housing units (for ownership or rental) as defined in Section 3 of the Illinois Affordable Housing Act. If the units are part of a residential redevelopment project that includes units not affordable to low- and very low-income households, only the low- and very low-income units shall be eligible for benefits under the Act; and
16. the costs of day care services for children of employees from low-income families working for businesses located within the R.P.A. and all or a portion of the cost of operation of day care centers established by R.P.A. businesses to serve employees from low-income families working in businesses located in the R.P.A.. For the purposes of this paragraph, "low-income families" means families whose annual income does not exceed eighty percent (80%) of the City, county or regional median income as determined from time to time by the United States Department of Housing and Urban Development.

If a special service area has been established pursuant to the Special Service Area Tax Act, 35 ILCS 235/0.01, et seq., then any tax increment revenues derived from the tax imposed pursuant to the Special Service Area Tax Act may be used within the redevelopment project area for the purposes permitted by the Special Service Area Tax Act as well as the purposes permitted by the Act.

#### Estimated Redevelopment Project Costs.

The estimated eligible costs that are deemed to be necessary to implement this Redevelopment Plan and Project are shown in Table 2. The total eligible cost provides an upper limit on expenditures that are to be funded using tax increment revenues, exclusive of capitalized interest, issuance costs, interest and other financing costs. Within this limit, adjustments may be made in line items without

amendment to this Plan, to the extent permitted by the Act. Additional funding in the form of State, Federal, County or local grants, private developer contributions and other outside sources may be pursued by the City as a means of financing improvements and facilities which are of benefit to the general community.

Table 2.

## Estimated Redevelopment Project Costs.

Eligible Expenses	Estimated Project Costs
Professional Services (including analysis, administration, studies, surveys, legal, marketing, et cetera.)	\$ 1,000,000
Property Assembly (including acquisition, site preparation, demolition and environmental remediation)	6,000,000
Rehabilitation of Existing Buildings, Fixtures and Leasehold Improvements	36,400,000
Eligible Construction Costs (Affordable Housing Construction and Rehabilitation Costs)	500,000
Relocation Costs	0
Public Works or Improvements (including streets and utilities, parks and open space, public facilities (schools and other public facilities) <sup>(1)</sup> )	4,500,000

<sup>(1)</sup> This category also may include paying for or reimbursing (i) an elementary, secondary or unit school district's increased costs attributed to assisted housing units and (ii) capital costs of taxing districts impacted by the redevelopment of the R.P.A.. As permitted by the Act, to the extent the City by written agreement accepts and approves the same, the City may pay, or reimburse all, or a portion of a taxing district's capital costs resulting from a redevelopment project necessarily incurred or to be incurred within a taxing district in furtherance of the objectives of the Plan.

Eligible Expenses	Estimated Project Costs
Job Training, Retraining, Welfare-to-Work	\$500,000
Interest Subsidy	1,000,000
Day Care Services	100,000
<b>TOTAL REDEVELOPMENT COSTS: <sup>(2)</sup> <sup>(3)</sup> <sup>(4)</sup></b>	<b>\$50,000,000</b>

Adjustments to the estimated line item costs in Table 2 are anticipated, and may be made by the City without amendment to the Redevelopment Plan and Project to the extent permitted by the Act. Each individual project cost will be re-evaluated in light of projected private development and resulting incremental tax revenues as it is considered for public financing under the provisions of the Act. The totals of line items set forth above are not intended to place a limit on the described expenditures. Adjustments may be made in line items within the total, either increasing or decreasing line item costs as a result of changed redevelopment costs and needs.

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<sup>(2)</sup> Total Redevelopment Project Costs exclude any additional financing costs, including any interest expense, capitalized interest, costs of issuance, and costs associated with optional redemptions. These costs are subject to prevailing market conditions and are in addition to Total Redevelopment Project Costs.

<sup>(3)</sup> The amount of the Total Redevelopment Project Costs that can be incurred in the R.P.A. will be reduced by the amount of redevelopment project costs incurred in contiguous R.P.A.s, or those separated from the R.P.A. only by a public right-of-way, that are permitted under the Act to be paid, and are paid, from incremental property taxes generated in the R.P.A., but will not be reduced by the amount of redevelopment project costs incurred in the R.P.A. which are paid from incremental property taxes generated in contiguous R.P.A.s or those separated from the R.P.A. only by a public right-of-way.

<sup>(4)</sup> All costs are in 2005 dollars and may be increased by five percent (5%) after adjusting for annual inflation reflected in the *Consumer Price Index (C.P.I.) for All Urban Consumers for All Items for the Chicago-Gary-Kenosha, IL-IN-WI C.M.S.A.*, published by the United States Department of Labor. In addition to the above stated costs, each issue of obligations issued to finance a phase of the Redevelopment Plan and Project may include an amount of proceeds sufficient to pay customary and reasonable charges associated with the issuance of such obligations, including interest costs.

In the event the Act is amended after the date of the approval of this Redevelopment Plan and Project by the City Council of Chicago to (a) include new eligible redevelopment project costs, or (b) expand the scope or increase the amount of existing eligible redevelopment project costs (such as, for example, by increasing the amount of incurred interest costs that may be paid under 65 ILCS 5/11-74.4-3(q)(11)), this Redevelopment Plan and Project shall be deemed to incorporate such additional, expanded or increased eligible costs as eligible costs under the Redevelopment Plan and Project, to the extent permitted by the Act. In the event of such amendment(s), the City may add any new eligible redevelopment project costs as a line item in Table 2, or otherwise adjust the line items in Table 2 without amendment to this Redevelopment Plan and Project, to the extent permitted by the Act. In no instance, however, shall such additions or adjustments result in any increase in the total redevelopment project costs without a further amendment to this Redevelopment Plan and Project.

#### Phasing And Scheduling Of The Redevelopment.

Each private project within the 26<sup>th</sup> and King Drive R.P.A. shall be governed by the terms of a written redevelopment agreement entered into by a designated developer and the City and approved by the City Council. Where tax increment funds are used to pay eligible redevelopment project costs, to the extent funds are available for such purposes, expenditures by the City shall be coordinated to coincide on a reasonable basis with the actual redevelopment expenditures of the developer(s). The Redevelopment Plan and Project shall be completed, and all obligations issued to finance redevelopment costs shall be retired, no later than December 31<sup>st</sup> of the year in which the payment to the City Treasurer as provided in the Act is to be made with respect to ad valorem taxes levied in the twenty-third (23<sup>rd</sup>) calendar year following the year in which the ordinance approving this Redevelopment Plan and Project is adopted (by December 31, 2029), if the ordinances establishing the R.P.A. are adopted during 2005.

#### Sources Of Funds To Pay Costs.

Funds necessary to pay for Redevelopment Project Costs and secure municipal obligations issued for such costs are to be derived primarily from Incremental Property Taxes. Other sources of funds which may be used to pay for Redevelopment Project Costs or secure municipal obligations are land disposition proceeds, state and federal grants, investment income, private financing and other legally permissible funds the City may deem appropriate. The City may incur redevelopment project costs which are paid for from funds of the City other than incremental taxes, and the City may then be reimbursed for such costs from incremental taxes. Also, the City may permit the utilization of guarantees, deposits and other forms of security made available by private sector developers. Additionally, the City may utilize revenues, other than State sales tax increment

revenues, received under the Act from one redevelopment project area for eligible cost in another redevelopment project area that is either contiguous to, or is separated only by a public right-of-way from, the redevelopment project area from which the revenues are received.

The 26<sup>th</sup> and King Drive R.P.A. is contiguous to or separated by only a public right-of-way from the Bronzeville R.P.A., and may in the future, be contiguous to, or be separated only by a public right-of-way from other redevelopment areas created under the Act. The City may utilize net incremental property taxes received from the 26<sup>th</sup> and King Drive R.P.A. to pay eligible redevelopment project costs, or obligations issued to pay such costs, in other contiguous redevelopment project areas or project areas separated only by a public right-of-way, and vice versa. The amount of revenue from the R.P.A., made available to support such contiguous redevelopment project areas, or those separated only by a public right-of-way, when added to all amounts used to pay eligible Redevelopment Project Costs within the R.P.A., shall not at any time exceed the total Redevelopment Project Costs described in this Plan.

The 26<sup>th</sup> and King Drive R.P.A. may become contiguous to, or be separated only by a public right-of-way from, redevelopment project areas created under the Industrial Jobs Recovery Law (65 ILCS 5/11-74 6-1, et seq.). If the City finds that the goals, objectives and financial success of such contiguous redevelopment project areas or those separated only by a public right-of-way are interdependent with those of the R.P.A., the City may determine that it is in the best interest of the City and the furtherance of the purposes of the Plan that net revenues from the R.P.A. be made available to support any such redevelopment project areas, and vice versa. The City therefore proposes to utilize net incremental revenues received from the R.P.A. to pay eligible redevelopment project costs (which are eligible under the Industrial Jobs Recovery Law referred to above) in any such areas and vice versa. Such revenues may be transferred or loaned between the R.P.A. and such areas. The amount of revenue from the R.P.A. so made available, when added to all amounts use pay eligible Redevelopment Project Costs within the R.P.A. or other areas as described in the preceding paragraph, shall not at any time exceed the total Redevelopment Project Costs described in Table 2 of this Plan.

If necessary, the redevelopment plans for other contiguous redevelopment project areas that may be or already have been created under the Act may be drafted or amended as applicable to add appropriate and parallel language to allow for sharing of revenues between such districts.

#### Issuance Of Obligations.

To finance project costs, the City may issue bonds or obligations secured by Incremental Property Taxes generated within the 26<sup>th</sup> and King Drive R.P.A. pursuant to Section 11-74.4-7 of the Act. To enhance the security of a municipal

obligation, the City may pledge its full faith and credit through the issuance of general obligations bonds. In addition, the City may provide other legally permissible credit enhancements to any obligations issued pursuant to the Act.

All obligations issued by the City pursuant to this Eligibility Study and Redevelopment Plan and the Act shall be retired within the time frame described under "Phasing and Scheduling of the Redevelopment" above. Also, the final maturity date of any such obligations which are issued may not be later than twenty (20) years from their respective dates of issue. One (1) or more of a series of obligations may be sold at one (1) or more times in order to implement this Eligibility Study and Redevelopment Plan. Obligations may be issued on a parity or subordinated basis.

In addition to paying Redevelopment Project Costs, Incremental Property Taxes may be used for the scheduled retirement of obligations, mandatory or optional redemptions, establishment of debt service reserves and bond sinking funds. To the extent that Incremental Property Taxes are not needed for these purposes, and are not otherwise required, pledged, earmarked or otherwise designated for the payment of Redevelopment Project Costs, any excess Incremental Property Taxes shall then become available for distribution annually to taxing districts having jurisdiction over the R.P.A. in the manner provided by the Act.

#### Most Recent Equalized Assessed Valuation Of Properties In The Redevelopment Project Area.

The purpose of identifying the most recent equalized assessed valuation ("E.A.V.") of the 26<sup>th</sup> and King Drive R.P.A. is to provide an estimate of the initial E.A.V. which the Cook County Clerk will certify for the purpose of annually calculating the incremental E.A.V. and incremental property taxes of the 26<sup>th</sup> and King Drive R.P.A.. The thirteen (13) tax parcels comprising the R.P.A. have a total estimated E.A.V. of Zero Dollars (\$0) in the 2003 tax year. In 2004, the E.A.V. is expected to remain Zero Dollars (\$0). The 2003 total E.A.V. amount by permanent index number is summarized in Appendix 2. The E.A.V. is subject to verification by the Cook County Clerk. After verification, the final figure shall be certified by the Cook County Clerk, and shall become the Certified Initial E.A.V. from which all incremental property taxes in the Redevelopment Project Area will be calculated by Cook County.

#### Anticipated Equalized Assessed Valuation.

By 2028, the E.A.V. for the 26<sup>th</sup> and King Drive R.P.A. will be approximately Seventy-six Million Eight Hundred Thousand Dollars (\$76,800,000). This estimate is based on several key assumptions, including: 1) an inflation factor of four percent (4%) per year on the E.A.V. of all properties within the 26<sup>th</sup> and King Drive R.P.A., with its cumulative impact occurring in each triennial reassessment year;

2) an equalization factor of 2.4598 throughout the life of the R.P.A. and 3) a 2003 tax rate of 6.433% which is projected to decline throughout the life of the R.P.A.

6.

*Required Findings And Tests.*

**Lack Of Growth And Private Investment.**

The City is required under the Act to evaluate whether or not the R.P.A. has been subject to growth and private investment and must substantiate a finding of lack of such investment prior to establishing a tax increment financing district.

The R.P.A. has not been subject to growth and development through private enterprise or not-for-profit sources. This lack of investment is evidenced by the fact that the hospital has approximately Sixty-five Million Dollars (\$65,000,000) in deferred maintenance and facility rehabilitation and improvement needs, as outlined in the Mercy Hospital's capital improvement budget.

Mercy Hospital has been and will continue to be unable to make significant investments in its facility because it is a not-for-profit hospital which relies heavily on state and federal government funding and is a Disproportionate Share Hospital as defined by the State, meaning that it serves a high proportion of Medicaid patients who account for forty-three percent (43%) of all Mercy patients. Both of these factors limit the revenues of the hospital and the dollars available for facility improvements.

In addition, over the years the three (3) of the four (4) buildings have fallen into disuse and have become vacant. These properties have remained vacant primarily because the cost required to rehabilitate the buildings to modern standards cannot be supported by the private market. The improvements required to bring the buildings to modern standards are extensive, with significant renovations reportedly required to make the buildings marketable. The current hospital operations results in excess land that could be made available for development. However, current level of infrastructure serving the site is insufficient to support private market redevelopment.

**Finding:** The Redevelopment Project Area (26<sup>th</sup> and King Drive R.P.A.) on the whole has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of the Redevelopment Plan and Project.

But for....

The City is required to find that, but for the designation of the T.I.F. district and the use of tax increment financing, it is unlikely that significant investment will occur in the 26<sup>th</sup> and King Drive R.P.A.

Without the support of public resources, the redevelopment objectives of the 26<sup>th</sup> and King Drive R.P.A. will most likely not be realized. T.I.F. assistance may be used to fund rehabilitation, land assembly, site preparation, infrastructure improvements, and expansions to public facilities. Without the creation of the 26<sup>th</sup> and King Drive R.P.A., these types of projects are not likely to occur.

Due to Mercy Hospital's mission of serving the economically and socially disadvantaged, it is unlikely that the hospital will have the resources available to upgrade and modernize its facility in the future. In addition, the site preparation and public infrastructure that is necessary to facilitate the redevelopment of the obsolete eastern portion of the campus are so extensive that it would most likely not be able to be absorbed by the private market on its own without public assistance.

**Finding:** But for the adoption of this Redevelopment Plan and Project, critical resources will be lacking that would otherwise support the redevelopment of the 26<sup>th</sup> and King Drive R.P.A. and the development of the 26<sup>th</sup> and King Drive R.P.A. would not be reasonably anticipated.

#### Conformance To The Plans Of The City.

The 26<sup>th</sup> and King Drive Redevelopment Plan and Project must conform to the comprehensive plan for the City, conform to the strategic economic development plans, or include land uses that have been approved by the Chicago Plan Commission.

The proposed land uses described in this Redevelopment Plan and Project will be approved by the Chicago Plan Commission prior to its adoption by the City Council.

#### Dates Of Completion.

The dates of completion of the project and retirement of obligations are described under "Phasing and Scheduling of the Redevelopment" in Section 5, above.

#### Financial Impact Of The Redevelopment Project.

As explained above, without the adoption of this Redevelopment Plan and Project and tax increment financing, the 26<sup>th</sup> and King Drive R.P.A. is not expected to be

redeveloped by private enterprise. Additionally, there is a genuine threat that blighting conditions will continue to exist and spread and that the entire area will become a less attractive site for development. The continued decline of the R.P.A. could have a detrimental effect on the growth of property values in surrounding areas and could lead to a reduction of real estate tax revenue to all taxing districts.

This document describes the comprehensive redevelopment program proposed to be undertaken by the City to create an environment in which private investment can reasonably occur. If a redevelopment project is successful, various new projects may be undertaken that will assist in alleviating blighting conditions, creating new jobs and promoting both public and private development in the 26<sup>th</sup> and King Drive R.P.A.

This Redevelopment Plan and Project is expected to have short- and long-term financial impacts on the affected taxing districts. During the period when tax increment financing is utilized, real estate tax increment revenues from the increases in E.A.V. over and above the certified initial E.A.V. (established at the time of adoption of this document by the City) may be used to pay eligible redevelopment project costs for the 26<sup>th</sup> and King Drive R.P.A.. At the time when the 26<sup>th</sup> and King Drive R.P.A. is no longer in place under the Act, the real estate tax revenues resulting from the redevelopment of the 26<sup>th</sup> and King Drive R.P.A. will be distributed to all taxing districts levying taxes against property located in the 26<sup>th</sup> and King Drive R.P.A.. These revenues will then be available for use by the affected taxing districts.

#### Demand On Taxing District Services And Program To Address Fine Service Impact.

In 1994, the Act was amended to require an assessment of any financial impact of a redevelopment project area on, or any increased demand for service from, any taxing district affected by the redevelopment plan and a description of any program to address such financial impacts or increased demand.

The City intends to monitor development in the 26<sup>th</sup> and King Drive R.P.A. and with the cooperation of the other affected taxing districts will attempt to ensure that any increased needs are addressed in connection with any particular development. The following major taxing districts presently levy taxes on properties located within the 26<sup>th</sup> and King Drive R.P.A. and maintain the listed facilities within the boundaries of the R.P.A., or within close proximity (three (3) to five (5) blocks) to the R.P.A. boundaries:

1. City of Chicago.
2. Chicago Board of Education.

- Big Picture Company High School (2710 South Dearborn Street)
  - Drake Elementary (2722 South Dr. Martin Luther King, Jr. Drive)
  - Dunbar Vocational High School (3000 South Dr. Martin Luther King, Jr. Drive)
  - Graham Training Center (2347 South Wabash Avenue)
  - Haines Elementary (247 West 23<sup>rd</sup> Place)
  - Kipp Middle School (2710 South Dearborn Street)
  - National Teachers Academy (55 West Cermak Road)
  - Williams Middle School (2710 South Dearborn Street)
  - Williams Multiplex (2710 South Dearborn Street)
  - Young Women's Leadership Academy (2641 South Calumet Avenue) (Charter School)
3. Chicago School Finance Authority.
4. Chicago Park District.
- Daniel Hale Williams (2710 South Dearborn Street)
  - Paul Laurence Dunbar (300 East 31<sup>st</sup> Street)
  - Lake Meadows (3117 South Rhodes Avenue)
  - Daniel Burnham/Lakefront (425 East McFetridge Drive)
5. City of Chicago Library Fund.
- Chinatown Branch (2353 South Wentworth Avenue)
6. Chicago Community College District 508
7. Metropolitan Water Reclamation District of Greater Chicago
8. County of Cook

## 9. Cook County Forest Preserve District

Map 6 illustrates the locations of community facilities operated by the above listed taxing districts within or in close proximity to the 26<sup>th</sup> and King Drive R.P.A. Redevelopment activity increased demand for services from one (1) or more of the above listed taxing district anticipated nature of the increased demand for services on these taxing districts, and the proposed activities to address increased demand are described below.

**City Of Chicago.** The City is responsible for a wide range of municipal services, including: Police and fire protection; capital improvements and maintenance; water supply and distribution; sanitation service; and building, housing and zoning codes. Replacement of vacant and under-utilized sites with active and more intensive uses may result in additional demands on services and facilities provided by the districts. While there are no public service facilities operated by the City within the 26<sup>th</sup> and King Drive R.P.A., there are several within close proximity to the area. Additional costs to the City for police, fire, and recycling and sanitation services arising from residential development may occur. However, it is expected that any increase in demand for the City services and programs associated with the 26<sup>th</sup> and King Drive R.P.A. adequately by City police, fire protection, sanitary collection and recycling services currently maintained and operated by the City. The redevelopment of the 26<sup>th</sup> and King Drive R.P.A. will not require expansion of services in this area.

**City Of Chicago Library Fund.** The Library Fund, supported primarily by property taxes, provides for the operation and maintenance of City of Chicago public libraries. Additional costs to the City for library services arising from residential development may occur. However, it is expected that any increase in demand for City library services and programs associated with the 26<sup>th</sup> and King Drive R.P.A. can be handled adequately by existing City library services. The redevelopment of the 26<sup>th</sup> and King Drive R.P.A. will not require expansion of services in this area.

**Chicago Board Of Education And Associated Agencies.** General responsibilities of the Board of Education include the provision, maintenance and operation of educational facilities and the provision of education services for kindergarten through twelfth (12<sup>th</sup>) grade.

It is possible that some families who purchase housing or rent new apartments in the 26<sup>th</sup> and King Drive R.P.A will send their children to public schools, putting increased demand on area school districts. However, it is unlikely that the scope of new residential construction would exhaust existing capacity. Existing enrollment capacity was verified through data provided from the Department of Operations at the Chicago Public Schools ("C.P.S."). According to C.P.S., elementary and middle schools establish a maximum enrollment capacity of eighty percent (80%) of the maximum facility design capacity. The maximum enrollment capacity

for high school facilities is one hundred percent (100%) of the maximum facility design capacity.

The enrollment and capacity data provided by C.P.S. reveal that one (1) of the six (6) school facilities that serve the proposed 26<sup>th</sup> and King Drive R.P.A. and the area immediately surrounding it is currently operating in excess of full capacity, with enrollment at ninety-three percent (93%) of permanent design capacity. Enrollment at the five (5) remaining school facilities is currently within their respective design capacities. Any increased costs to the local schools resulting from children residing in T.I.F.-assisted housing units will trigger those provisions within the Act that provide for reimbursement to the affected school district(s) where eligible. The City intends to monitor development in the 26<sup>th</sup> and King Drive R.P.A. and with the cooperation of the Board of Education, will attempt to ensure that any increased demands for services and capital improvements provided by the Board of Education are addressed in connection with each new residential project.

**Chicago Park District.** The Chicago Park District is responsible for the provision, maintenance and operation of park and recreational facilities throughout the City and for the provision of recreation programs.

It is expected that the households that may be added to the 26<sup>th</sup> and King Drive R.P.A. may generate additional demand for recreational services and programs and may create the needs for additional open spaces and recreational facilities operated by the Chicago Park District. The City intends to monitor development in the 26<sup>th</sup> and King Drive R.P.A. and with the cooperation of the Chicago Park District, will attempt to ensure that any increased demands for the services and capital improvements that may be provided by the Chicago Park District are addressed in connection with any particular residential development.

**Community College District 508.** This district is a unit of the State of Illinois' system of public community colleges, whose objective is to meet the educational needs of residents of the City and other students seeking higher education programs and services.

It is expected that any increase in demand for services from Community College District 508 indirectly or directly caused by development within the 26<sup>th</sup> and King Drive R.P.A. can be handled adequately by the district's existing service capacity, programs and facilities. Therefore, at this time no special programs are proposed for this taxing district. Should demand increase, the City will work with the affected district to determine what, if any, program is necessary to provide adequate services.

**Metropolitan Water Reclamation District:** This district provides the main trunk lines for the collection of wastewater from cities, villages and towns and for the treatment and disposal thereof.

It is expected that any increase in demand for treatment of sanitary and storm sewage associated with the 26<sup>th</sup> and King Drive R.P.A. can be handled adequately by existing treatment facilities maintained and operated by the Metropolitan Water Reclamation District of Greater Chicago.

Therefore, no special program is proposed for the Metropolitan Water Reclamation District of Greater Chicago.

**County Of Cook.** The County has principal responsibility for the protection of persons and property, the provision of public health services and the maintenance of County highways.

It is expected that any increase in demand for Cook County services can be handled adequately by existing services and programs maintained and operated by the County. Therefore, at this time, no special programs are proposed for these taxing districts. Should demand increase, the City will work with the affected taxing districts to determine what, if any, program is necessary to provide adequate services.

**Cook County Forest Preserve District.** The Forest Preserve District is responsible for acquisition, restoration and management of lands for the purpose of protecting and preserving open space in the City and County for the education, pleasure and recreation of the public. It is expected that any increase in demand for Forest Preserve services can be handled adequately by existing facilities and programs maintained and operated by the District. No special programs are proposed for the Forest Preserve.

Given the nature of the Redevelopment Plan and Project, specific fiscal impacts on the taxing districts and increases in demand for services provided by those districts cannot be wholly predicted within the scope of this plan.

7.

*Provisions For Amending Redevelopment  
Plan And Project.*

This Redevelopment Plan and Project and Project document may be amended pursuant to the provisions of the Act.

8.

*Commitment To Fair Employment Practices  
And Affirmative Action Plan.*

The City is committed to and will require developers to follow and affirmatively implement the following principles with respect to this Redevelopment Plan and Project. However, the City may implement programs aimed at assisting small businesses, residential property owners, and developers which may not be subject to these requirements.

- A. The assurance of equal opportunity in all personnel and employment actions with respect to this Redevelopment Plan and Project, including, but not limited to, hiring, training, transfer, promotion, discipline, fringe benefits, salary, employment working conditions, terminations, etc. without regard to race, color, religion, sex, age, disability, national origin, sexual orientation, ancestry, marital status, parental status, military discharge status, source of income or housing status.
- B. Meeting the City's standards for participation of twenty-four percent (24%) Minority Business Enterprises and four percent (4%) Women Business Enterprises and the City Resident Construction Worker Employment Requirement as required in redevelopment agreements.
- C. The commitment to affirmative action and non-discrimination will ensure that all members of the protected groups are sought out to compete for all job openings and promotional opportunities.
- D. Meeting City standards for the hiring of City residents to work on redevelopment project construction projects.
- E. Meeting City standards for any applicable prevailing wage rate as ascertained by the Illinois Department of Labor to all project employees.

[Appendix 1 referred to in this 26<sup>th</sup> and King Drive Redevelopment Project Area Tax Increment Finance District Eligibility Study, Redevelopment Plan and Project constitutes Exhibit "C" to ordinance and printed on page 67812 of this *Journal*.]

[Map 2 referred to in this 26<sup>th</sup> and King Drive Redevelopment Project Area Tax Increment Finance District Eligibility Study, Redevelopment Plan and Project constitutes Exhibit "E" to ordinance and printed on page 67813 of this *Journal*.]

[Maps 1, 3, 4A, 4B, 4C, 4D, 4E, 4F, 5 and 6 referred to in this 26<sup>th</sup> And King Drive Redevelopment Project Area Tax Increment Finance District Eligibility Study, Redevelopment Plan and Project printed on pages 67797 through 67806 of this *Journal*.]

Appendix 2 referred to in this 26<sup>th</sup> and King Drive Redevelopment Project Area Tax Increment Finance District Eligibility Study, Redevelopment Plan and Project reads as follows:

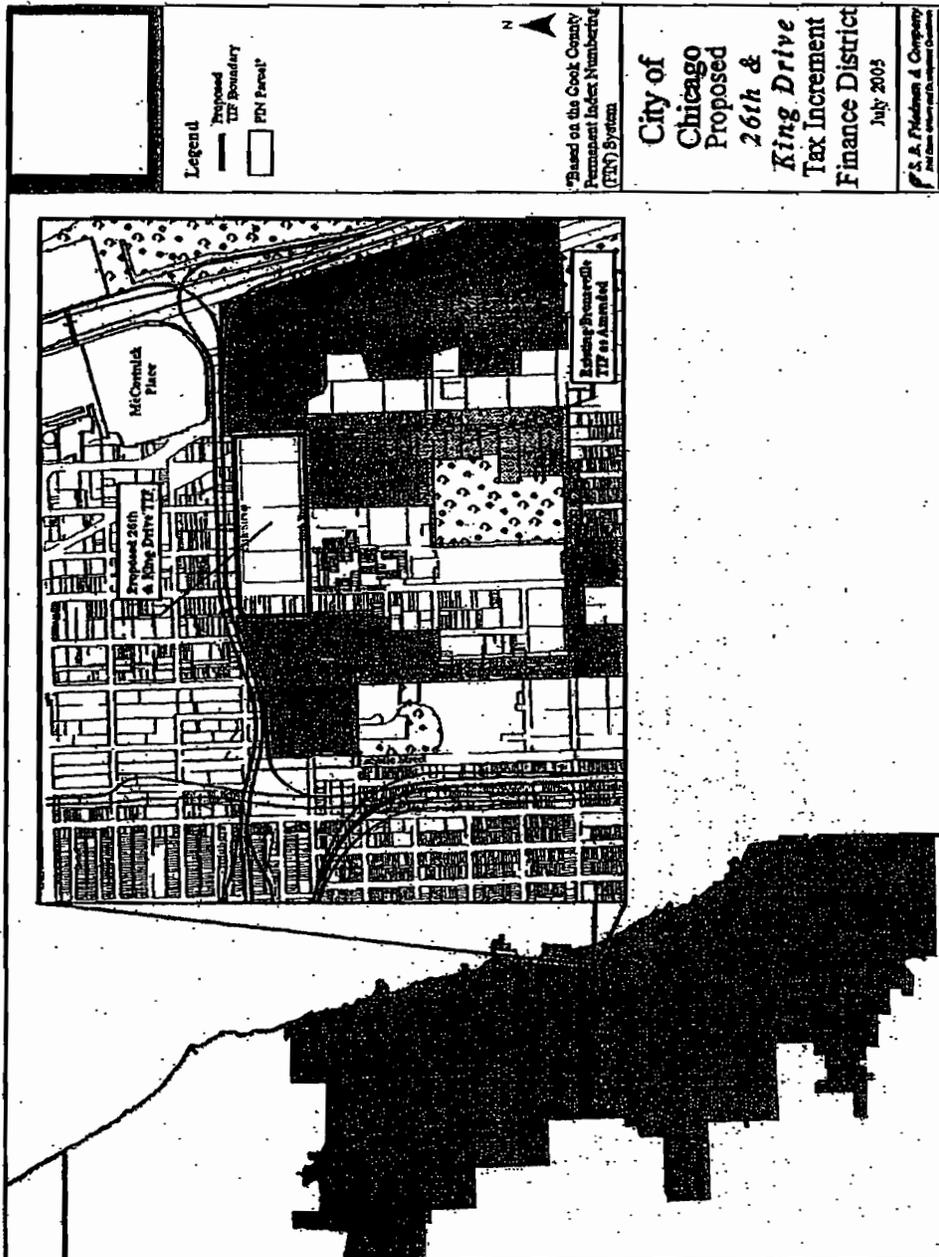
*Appendix 2.*  
(To 26<sup>th</sup> And King Drive Redevelopment Project Area  
Tax Increment Finance District Eligibility Study,  
Redevelopment Plan And Project)

*Summary Of 2003 Equalized Assessed Value  
By Permanent Index Number.*

Number	Permanent Index Number	Assessed Value 2003 (A.V.)	Equalized Assessed Value 2003 (E.A.V.)
1	17-27-129-001-0000	EX	EX
2	17-27-129-002-0000	EX	EX
3	17-27-129-003-0000	EX	EX
4	17-27-129-004-0000	EX	EX
5	17-27-123-015-0000	EX	EX
6	17-27-123-016-0000	EX	EX
7	17-27-123-017-0000	EX	EX
8	17-27-123-018-0000	EX	EX
9	17-27-123-019-0000	EX	EX
10	17-27-123-020-0000	EX	EX
11	17-27-123-021-0000	EX	EX
12	17-27-123-022-0000	EX	EX
13	17-27-123-023-0000	EX	EX

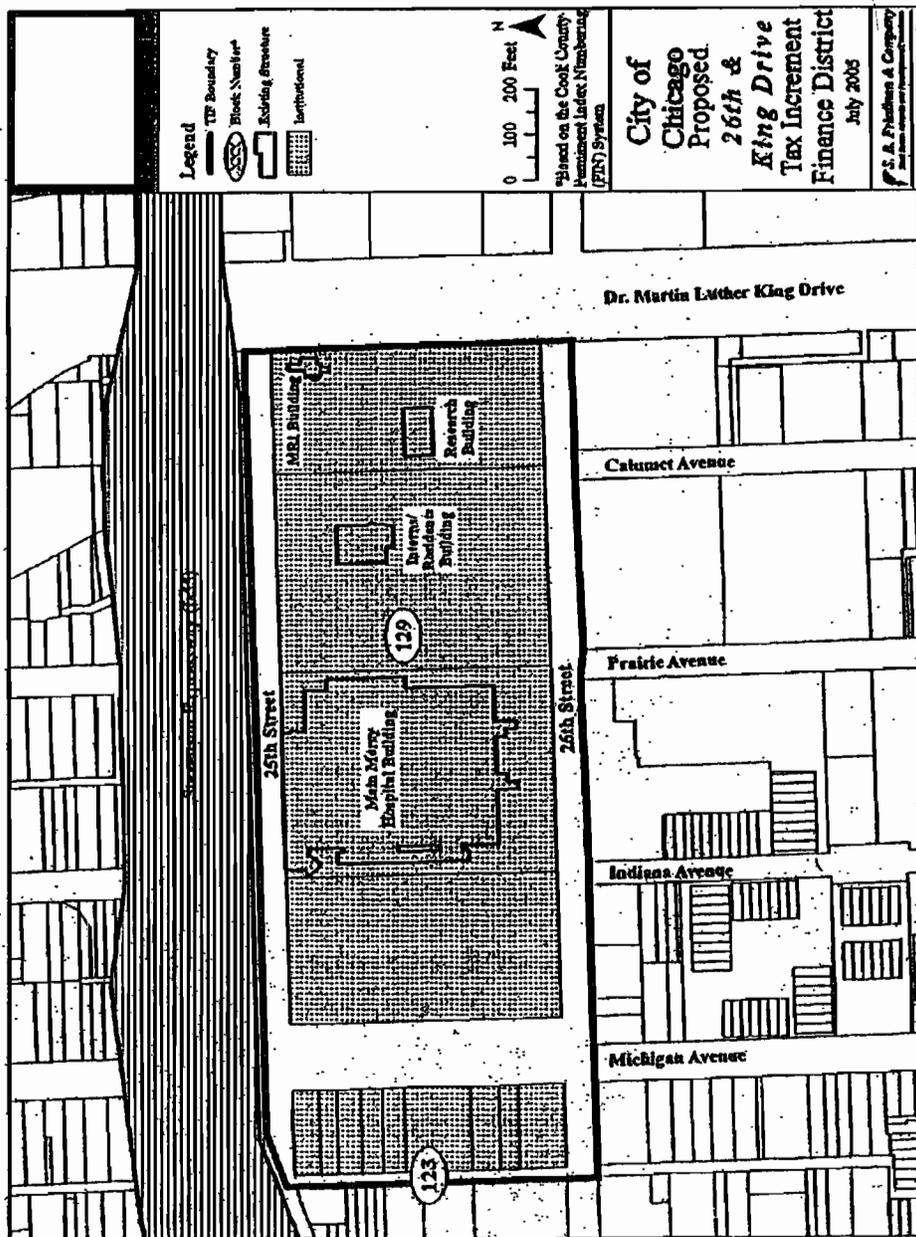
*Map 1.*  
**(To 26<sup>th</sup> And King Drive Redevelopment Project Area  
Tax Increment Finance District Eligibility Study,  
Redevelopment Plan And Project)**

*Community Context.*



*Map 3.*  
 (To 26<sup>th</sup> And King Drive Redevelopment Project Area  
 Tax Increment Finance District Eligibility Study,  
 Redevelopment Plan And Project)

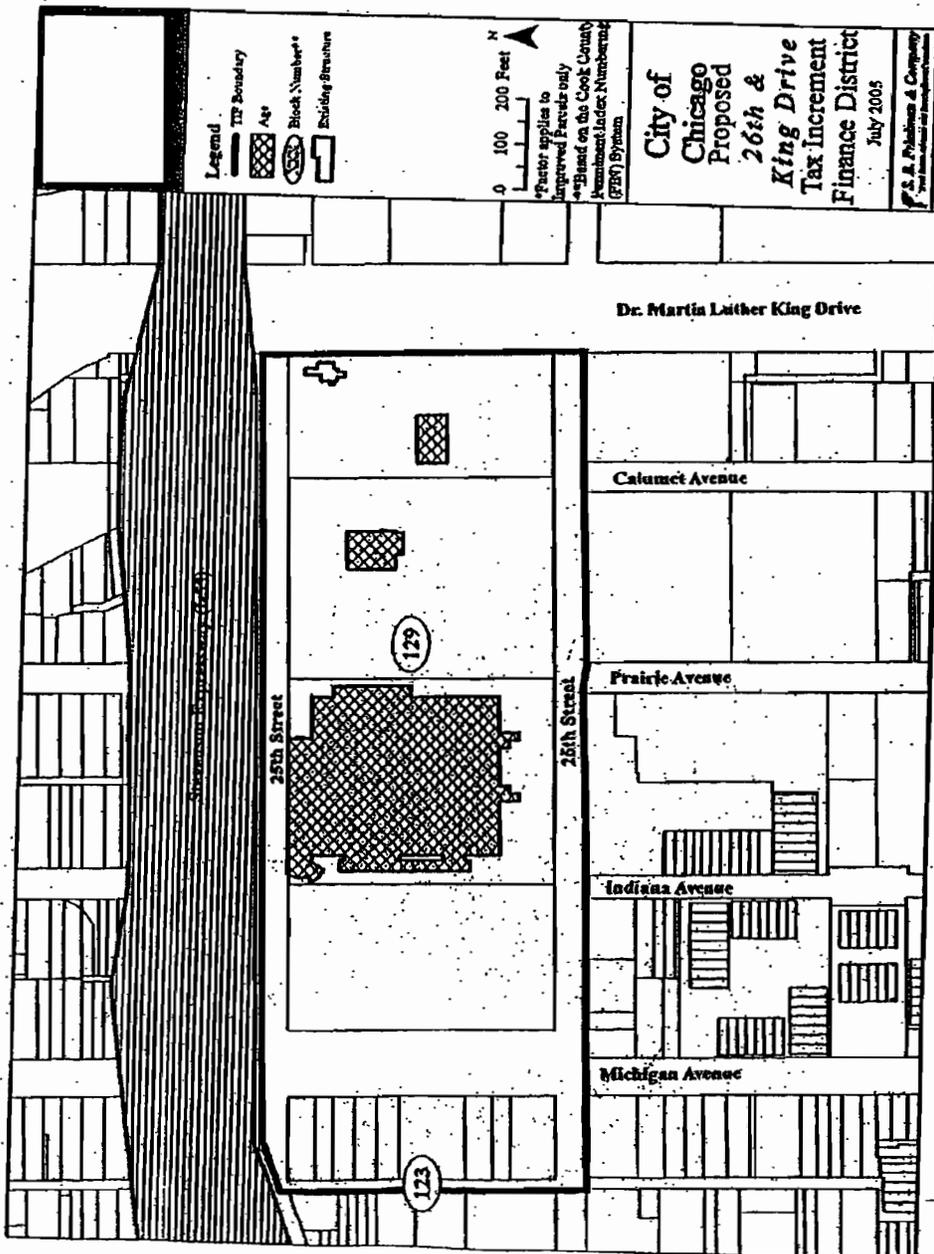
*Existing Land-Use.*



**Map 4A.**  
**(To 26<sup>th</sup> And King Drive Redevelopment Project Area**  
**Tax Increment Finance District Eligibility Study,**  
**Redevelopment Plan And Project)**

*Eligibility Factor.*

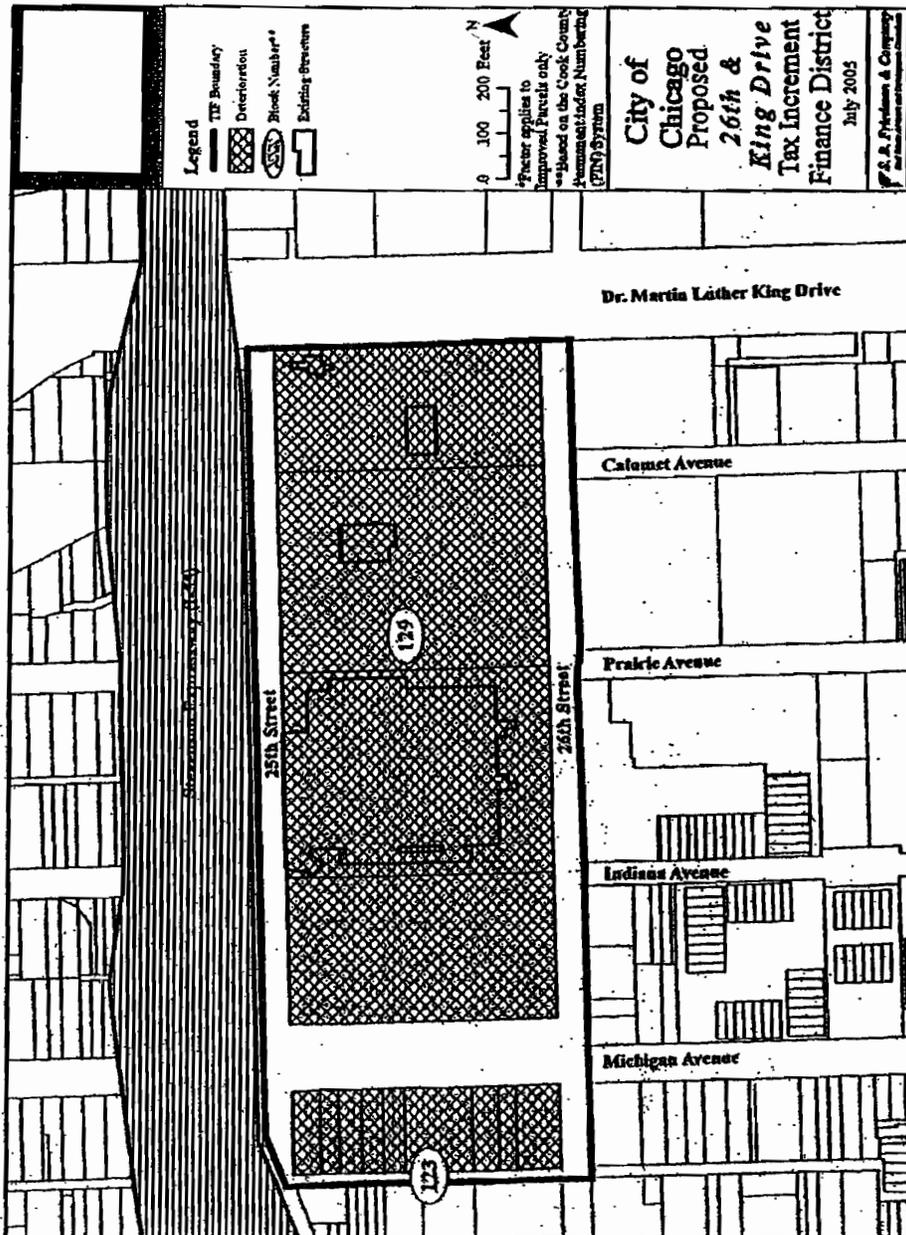
*Age.*



Map 4B.  
 (To 26<sup>th</sup> And King Drive Redevelopment Project Area  
 Tax Increment Finance District Eligibility Study,  
 Redevelopment Plan And Project)

Eligibility Factor.

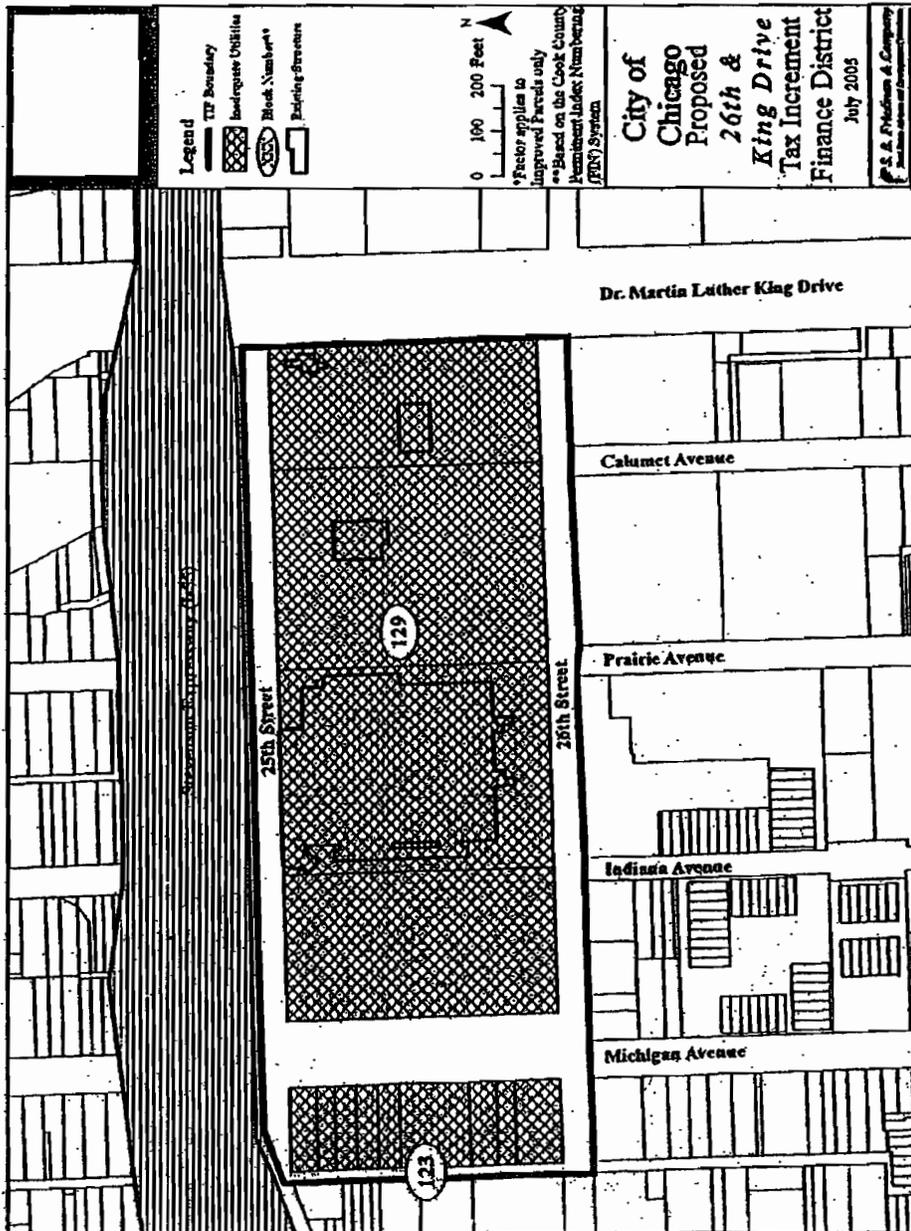
Deterioration.



*Map 4C.*  
(To 26<sup>th</sup> And King Drive Redevelopment Project Area  
Tax Increment Finance District Eligibility Study,  
Redevelopment Plan And Project)

*Eligibility Factor.*

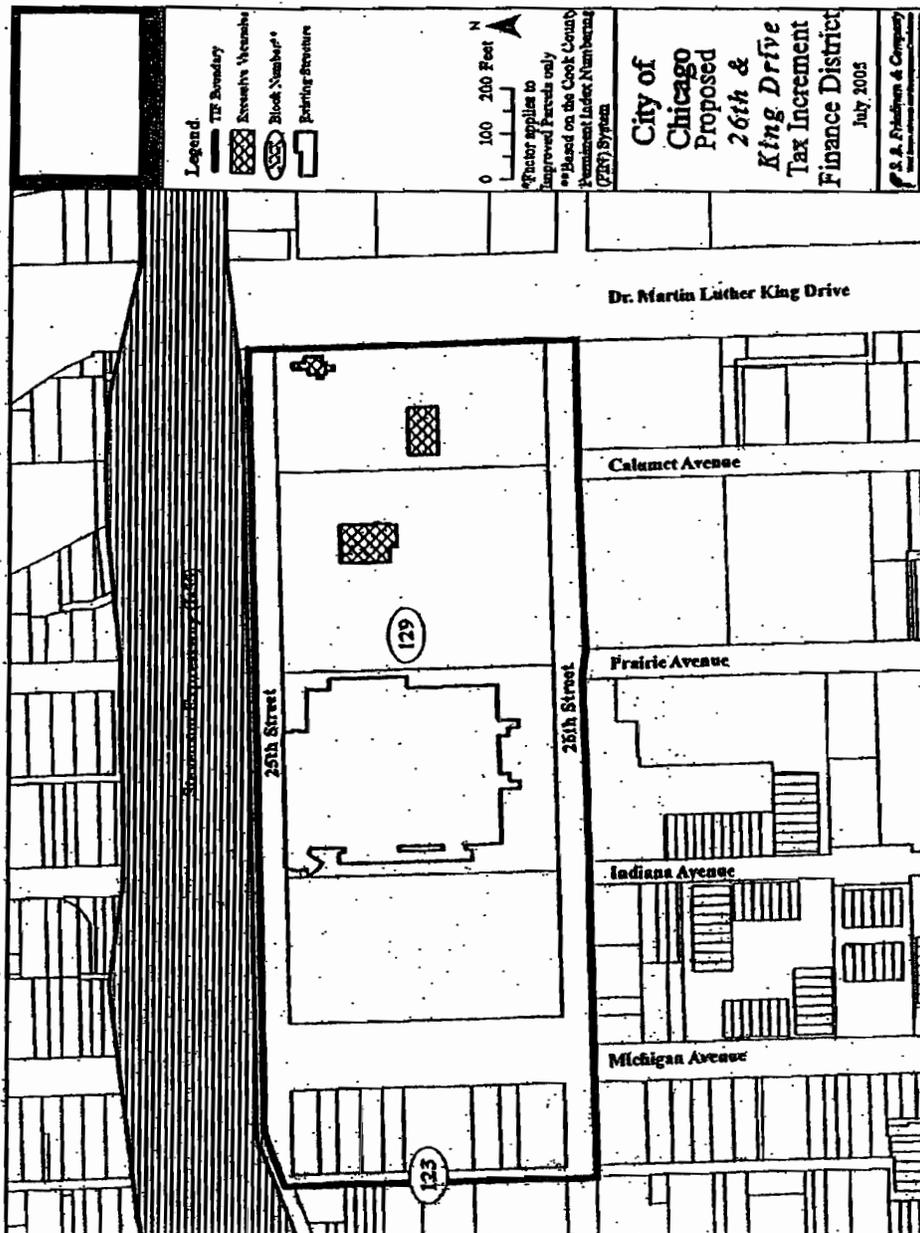
*Inadequate Utilities.*



*Map 4D.*  
 (To 26<sup>th</sup> And King Drive Redevelopment Project Area  
 Tax Increment Finance District Eligibility Study,  
 Redevelopment Plan And Project)

*Eligibility Factor.*

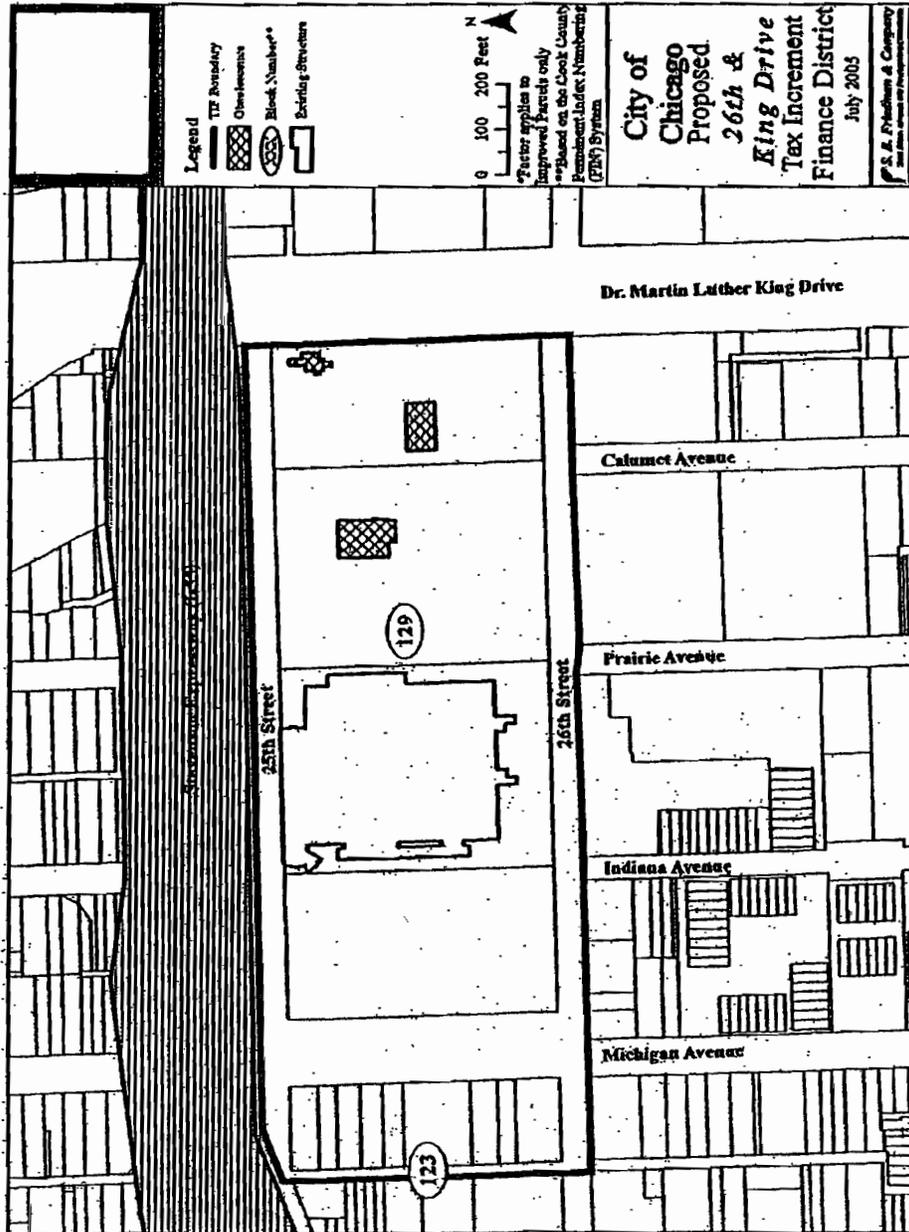
*Excessive Vacancies.*



*Map 4E.*  
(To 26<sup>th</sup> And King Drive Redevelopment Project Area  
Tax Increment Finance District Eligibility Study,  
Redevelopment Plan And Project)

*Eligibility Factor.*

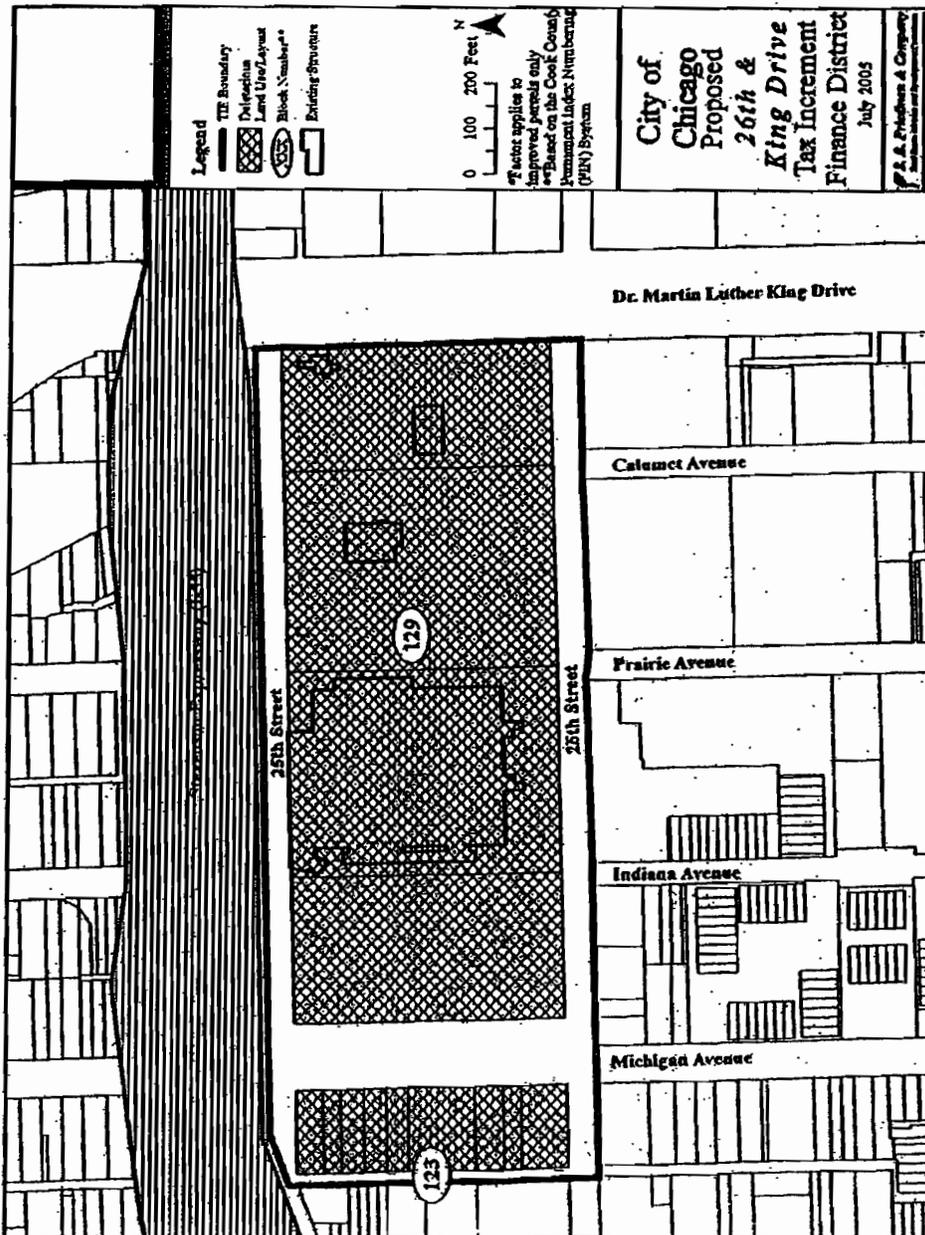
*Obsolescence.*



*Map 4F.*  
 (To 26<sup>th</sup> And King Drive Redevelopment Project Area  
 Tax Increment Finance District Eligibility Study,  
 Redevelopment Plan And Project)

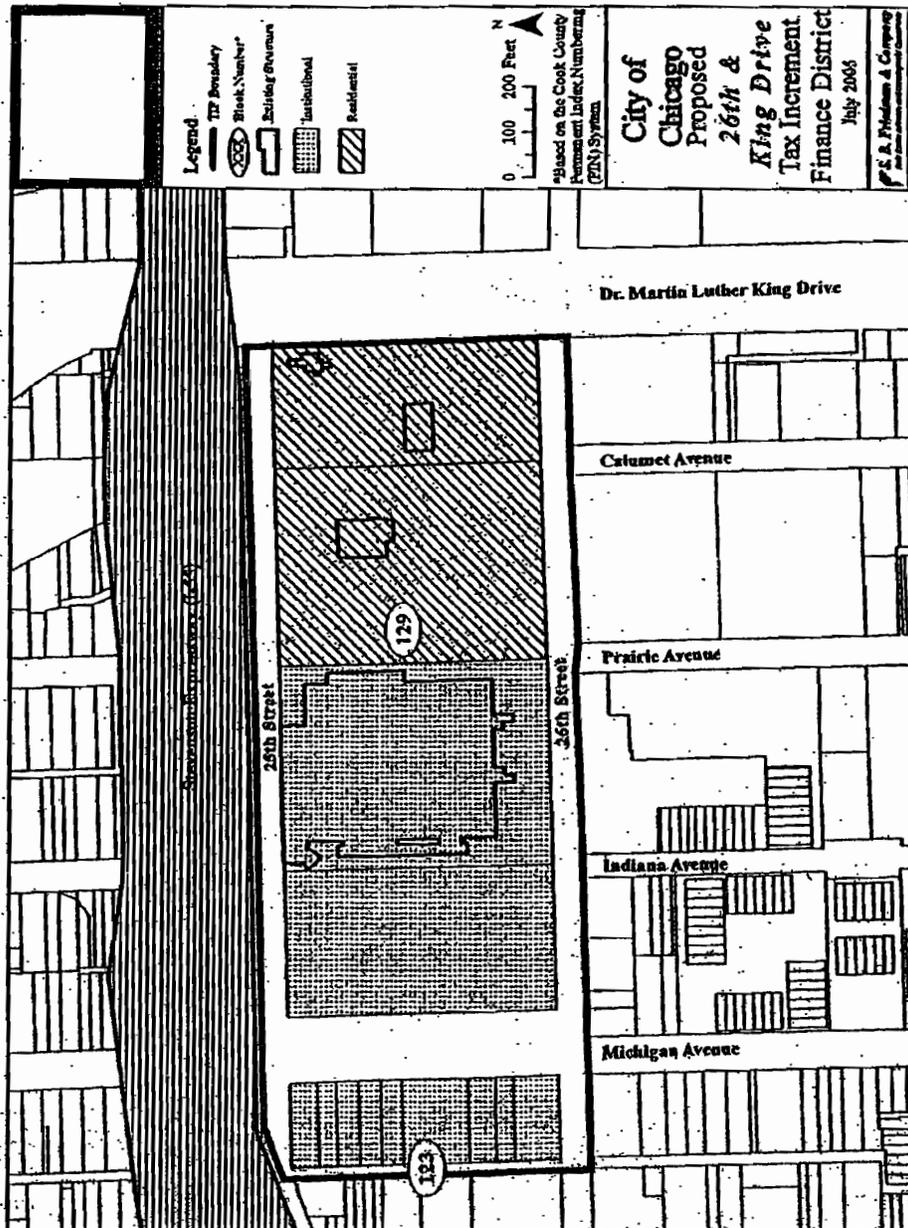
*Eligibility Factor.*

*Deleterious Land-Use/Layout.*



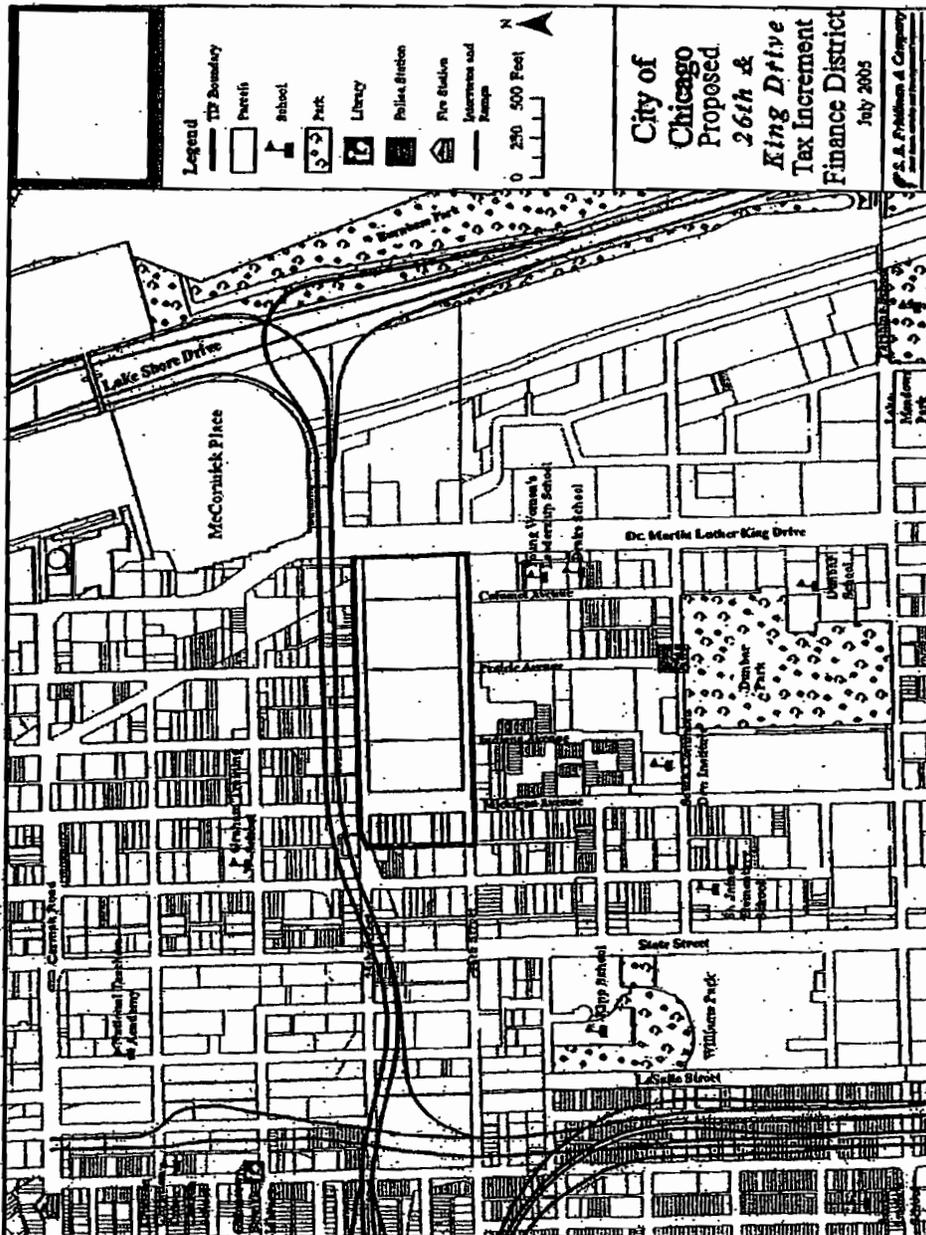
Map 5.  
(To 26<sup>th</sup> And King Drive Redevelopment Project Area  
Tax Increment Finance District Eligibility Study,  
Redevelopment Plan And Project)

Proposed Land-Use.



*Map 6.*  
 (To 26<sup>th</sup> And King Drive Redevelopment Project Area  
 Tax Increment Finance District Eligibility Study,  
 Redevelopment Plan And Project)

*Community Facilities.*





*And*

*Adoption Of Tax Increment Allocation Financing.*

Whereas, The Community Development Commission (the "Commission") of the City of Chicago (the "City") has heretofore been appointed by the Mayor of the City with the approval of its City Council ("City Council", referred to herein collectively with the Mayor as the "Corporate Authorities") (as codified in Section 2-124 of the City's Municipal Code) pursuant to Section 5/11-74.4-4(k) of the Illinois Tax Increment Allocation Redevelopment Act, as amended (65 ILCS 5/11-74.4-1, et seq.) (the "Act"); and

Whereas, The Commission is empowered by the Corporate Authorities to exercise certain powers set forth in Section 5/11-74.4-4(k) of the Act, including the holding of certain public hearings required by the Act; and

Whereas, Staff of the City's Department of Planning and Development has conducted or caused to be conducted certain investigations, studies and surveys of the 26<sup>th</sup> and King Drive area, the street boundaries of which are described on (Sub)Exhibit A hereto (the "Area"), to determine the eligibility of the Area as a redevelopment project area as defined in the Act (a "Redevelopment Project Area") and for tax increment allocation financing pursuant to the Act ("Tax Increment Allocation Financing"), and previously has presented the following documents to the Commission for its review:

The 26<sup>th</sup> and King Drive Redevelopment Project Area Tax Increment Financing District Eligibility Study, Redevelopment Plan and Project (the "Plan") which includes the eligibility study;

Whereas, Prior to the adoption by the Corporate Authorities of ordinances approving a redevelopment plan, designating an area as a Redevelopment Project Area or adopting Tax Increment Allocation Financing for an area, it is necessary that the Commission hold a public hearing (the "Hearing") pursuant to Section 5/11-74.4-5(a) of the Act, convene a meeting of a joint review board (the "Board") pursuant to Section 5/11-74.4-5(b) of the Act, set the dates of such Hearing and Board meeting and give notice thereof pursuant to Section 5/11-74.4-6 of the Act; and

Whereas, The Report and Plan were made available for public inspection and review since July 29, 2005; being a date not less than ten (10) days before the Commission meeting at which the Commission adopted Resolution 05-CDC-78 on August 9, 2005 fixing the time and place for the Hearing, at City Hall, 121 North LaSalle Street, Chicago, Illinois, in the following offices: City Clerk, Room 107 and Department of Planning and Development, Room 1000; and

Whereas, Notice of the availability of the Report and Plan, including how to obtain

this information, were sent by mail on August 15, 2005, which is within a reasonable time after the adoption by the Commission of Resolution 05-CDC-78 to: (a) all residential addresses that, after a good faith effort, were determined to be (i) located within the Area and (ii) located outside the proposed Area and within seven hundred fifty (750) feet of the boundaries of the Area (or, if applicable, were determined to be the seven hundred fifty (750) residential addresses that were outside the proposed Area and closest to the boundaries of the Area); and (b) organizations and residents that were registered interested parties for such Area; and

Whereas, Notice of the Hearing by publication was given at least twice; the first (1<sup>st</sup>) publication being on September 12, 2005, a date which is not more than thirty (30) nor less than ten (10) days prior to the Hearing, and the second (2<sup>nd</sup>) publication being on September 19, 2005, both in the *Chicago Sun-Times* or the *Chicago Tribune*, being newspapers of general circulation within the taxing districts having property in the Area; and

Whereas, Notice of the Hearing was given by mail to taxpayers by depositing such notice in the United States mail by certified mail addressed to the persons in whose names the general taxes for the last preceding year were paid on each lot, block, tract or parcel of land lying within the Area, on September 19, 2005, being a date not less than ten (10) days prior to the date set for the Hearing; and where taxes for the last preceding year were not paid, notice was also mailed to the persons last listed on the tax rolls as the owners of such property within the preceding three (3) years; and

Whereas, Notice of the Hearing was given by mail to the Illinois Department of Commerce and Community Affairs ("D.C.C.A.") and members of the Board (including notice of the Convening of the Board), by depositing such notice in the United States mail by certified mail addressed to D.C.C.A. and all Board members, on August 12, 2005 being a date not less than forty-five (45) days prior to the date set for the Hearing; and

Whereas, Notice of the Hearing and copies of the Report and Plan were sent by mail to taxing districts having taxable property in the Area, by depositing such notice and documents in the United States mail by certified mail addressed to all taxing districts having taxable property within the Area, on August 12, 2005 being a date not less than forty-five (45) days prior to the date set for the Hearing; and

Whereas, The Hearing was held on October 11, 2005 at 1:00 P.M. at City Hall, at City Council Chambers, 2<sup>nd</sup> Floor, 121 North LaSalle Street, Chicago, Illinois, as the official public hearing, and testimony was heard from all interested persons or representatives of any affected taxing district present at the Hearing and wishing to testify, concerning the Commission's recommendation to City Council regarding approval of the Plan, designation of the Area as a Redevelopment Project Area and adoption of Tax Increment Allocation Financing within the Area; and

Whereas, The Board meeting was convened on September 2, 2005 at 10:00 A.M. (being a date at least fourteen (14) days but not more than twenty-eight (28) days

after the date of the mailing of the notice to the taxing districts on August 12, 2005) in Room 1003A, City Hall, 121 North LaSalle Street, Chicago, Illinois, to review the matters properly coming before the Board to allow it to provide its advisory recommendation regarding the approval of the Plan, designation of the Area as a Redevelopment Project Area, adoption of Tax Increment Allocation Financing within the Area and other matters, if any, properly before it, all in accordance with Section 5/11-74.4-5(b) of the Act; and

Whereas, The Commission has reviewed the Report and Plan, considered testimony from the Hearing, if any, the recommendation of the Board, if any, and such other matters or studies as the Commission deemed necessary or appropriate in making the findings set forth herein and formulating its decision whether to recommend to City Council approval of the Plan, designation of the Area as a Redevelopment Project Area and adoption of Tax Increment Allocation Financing within the Area; now, therefore,

Be It Resolved by the Community Development Commission of the City of Chicago:

Section 1. The above recitals are incorporated herein and made a part hereof.

Section 2. The Commission hereby makes the following findings pursuant to Section 5/11-74.4-3(n) of the Act or such other section as is referenced herein:

- a. the Area on the whole has not been subject to growth and development through investment by private enterprise and would not reasonably be expected to be developed without the adoption of the Plan;
- b. the Plan:
  - (i) conforms to the comprehensive plan for the development of the City as a whole;
  - (ii) the Plan either (A) conforms to the strategic economic development or redevelopment plan issued by the Chicago Plan Commission or (B) includes land uses that have been approved by the Chicago Plan Commission;
- c. the Plan meets all of the requirements of a redevelopment plan as defined in the Act and, as set forth in the Plan, the estimated date of completion of the projects described therein and retirement of all obligations issued to finance redevelopment project costs is not later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 5/11-74.4-8 of the Act is to be made with respect to ad valorem taxes levied in the twenty-third (23<sup>rd</sup>) calendar year following the year of the adoption of the ordinance approving the designation of the Area as a redevelopment project area and, as required pursuant to Section 5/11-74.4-7 of the Act, no such obligation shall have a maturity date greater than twenty (20) years;

- d. to the extent required by Section 5/11-74.4-3(n) (6) of the Act, the Plan incorporates the housing impact study, if such study is required by Section 5/11-74.4-3(n)(5) of the Act;
- e. the Plan will not result in displacement of residents from inhabited units;
- f. the Area includes only those contiguous parcels of real property and improvements thereon that are to be substantially benefitted by proposed Plan improvements, as required pursuant to Section 5/11-74.4-4(a) of the Act;
- g. as required pursuant to Section 5/11-74.4-3(p) of the Act:
  - (i) the Area is not less, in the aggregate, than one and one-half (1½) acres in size; and
  - (ii) conditions exist in the Area that cause the Area to qualify for designation as a redevelopment project area and a conservation area as defined in the Act;
- h. if the Area is qualified as a "blighted area", whether improved or vacant, each of the factors necessary to qualify the Area as a Redevelopment Project Area on that basis is (i) present, with that presence documented to a meaningful extent so that it may be reasonably found that the factor is clearly present within the intent of the Act and (ii) reasonably distributed throughout the improved part or vacant part, as applicable, of the Area as required pursuant to Section 5/11-74.4-3(a) of the Act;
- i. if the Area is qualified as a "conservation area", the combination of the factors necessary to qualify the Area as a redevelopment project area on that basis is detrimental to the public health, safety, morals or welfare, and the Area may become a blighted area; [and].

Section 3. The Commission recommends that the City Council approve the plan pursuant to Section 5/11-74.4-4 of the Act.

Section 4. The Commission recommends that the City Council designate the Area as a Redevelopment Project Area pursuant to Section 5/11-74.4-4 of the Act.

Section 5. The Commission recommends that the City Council adopt Tax Increment Allocation Financing within the Area.

Section 6. If any provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this resolution.

Section 7. All resolutions, motions or orders in conflict with this resolution are hereby repealed to the extent of such conflict.

Section 8. This resolution shall be effective as of the date of its adoption.

Section 9. A certified copy of this resolution shall be transmitted to the City Council.

Adopted: October 11, 2005.

[(Sub)Exhibit "A" referred to in this Resolution 05-CDC-93  
unavailable at time of printing.]

*Exhibit "C".*  
(To Ordinance)

*Legal Description.*

Those parts of various lots, parts of lots and streets and alleys in various subdivisions in part of the northwest quarter and part of the southwest quarter of Section 27, Township 39 North, Range 14, East of the Third Principal Meridian, described as follows:

beginning at the intersection of the north line of East 25<sup>th</sup> Street with the west line of South Park Avenue; thence south along the west line of South Park Avenue and its southerly extension to the easterly extension of the south line of East 26<sup>th</sup> Street; thence west along said easterly extension and the south line of East 26<sup>th</sup> Street to the southerly extension of the west line of the first 18 foot public alley west of South Michigan Avenue; thence north along said extension and the west line of said 18 foot public alley and its northerly extension to the north line of East 25<sup>th</sup> Street aforesaid; thence east along the north line of East 25<sup>th</sup> Street and its easterly extensions to the point of beginning, in Cook County, Illinois.

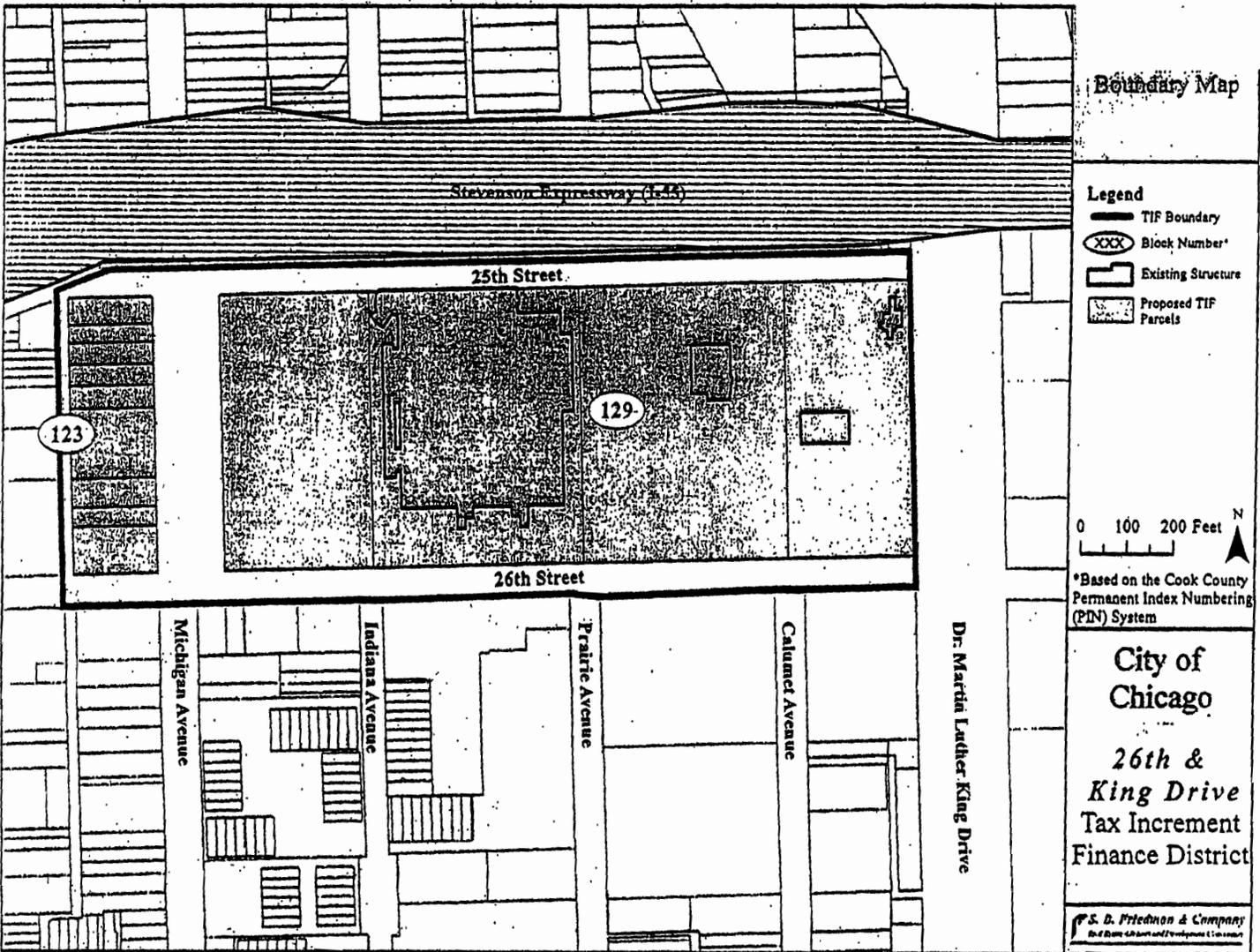
*Exhibit "D".*  
(To Ordinance)

*Street Boundaries Of The Area.*

The Area is located within the near south side community area and is generally bounded by the Stevenson Expressway on the north, East 26<sup>th</sup> Street on the south, South Dr. Martin Luther King, Jr. Drive on the east, and the alley west of South Michigan Avenue on the west.

*Exhibit "E".  
(To Ordinance)*

*Boundary Map.*



**EXHIBIT E**

**CONSTRUCTION CONTRACT**

*[See Attached]*

**AIA DOCUMENT A101-1997****Standard Form of Agreement Between Owner and Contractor**  
*where the basis of payment is a STIPULATED SUM*

**AGREEMENT** made as of the Sixteenth day of January  
in the year Two Thousand Six  
*(In words, indicate day, month and year)*

**BETWEEN** the Owner: Mercy Hospital & Medical Center  
*(Name, address and other information)* 2525 S. Michigan Avenue  
Chicago, IL 60616-2477

and the Contractor: National Wrecking Company  
*(Name, address and other information)* 2441 N. Leavitt Street  
Chicago, Illinois 60647-2005

The Project is: Demolition of the Buildings  
*(Name and location)* Located at 2500 & 2510  
S. King Drive, Chicago, Illinois

The Architect is:  
*(Name, address and other information)*

The Owner and Contractor agree as follows.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201-1997, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

This document has been approved and endorsed by The Associated General Contractors of America.



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OWNER-CONTRACTOR  
AGREEMENT

The American Institute  
of Architects  
1735 New York Avenue, N.W.  
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**ARTICLE 1 THE CONTRACT DOCUMENTS**

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 8.

**ARTICLE 2 THE WORK OF THIS CONTRACT**

The Contractor shall fully execute the Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

**ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

*(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)*

Upon receipt of permits from the City of Chicago

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanic's liens and other security interests, the Owner's time requirement shall be as follows:

3.2 The Contract Time shall be measured from the date of commencement.

3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than days from the date of commencement, or as follows:

*(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. Unless stated elsewhere in the Contract Documents, insert any requirements for earlier Substantial Completion of certain portions of the Work.)*

2500 S. King Drive = 15 Calendar Days  
2510 S. King Drive = 75 Calendar Days

, subject to adjustments of this Contract Time as provided in the Contract Documents.

*(Insert provisions, if any, for liquidated damages relating to failure to complete on time or for bonus payments for early completion of the Work.)*



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**ARTICLE 4 CONTRACT SUM**

4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Two Hundred Thirty Four Thousand and no/100 ----- Dollars (\$ 234,000.00), subject to additions and deductions as provided in the Contract Documents.

4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:  
*(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)*

1. Remove the building foundations of 2500 S. King Drive down to 6'-0" below the adjacent grade.
  
2. Remove the building foundations of 2510 S. King Drive down to 6'-0" below the adjacent grade.

**ARTICLE 5 PAYMENTS**

**5.1 PROGRESS PAYMENTS**

Owner

5.1.1 Based upon Applications for Payment submitted to the ~~Architect~~ by the Contractor and ~~Certificates for Payment issued by the Architect~~, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

Owner

5.1.3 Provided that an Application for Payment is received by the ~~Architect~~ not later than the 30th day of a month, the Owner shall make payment to the Contractor not later than the 30th day of the Owner month. If an Application for Payment is received by the ~~Architect~~ after the application date fixed above, payment shall be made by the Owner not later than 30 days after the Owner receives the Application for Payment.

5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.



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5.1.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- 1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Ten percent ( 10 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Subparagraph 7.3.8 of AIA Document A201-1997;
- 2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of \_\_\_\_\_ percent ( \_\_\_\_\_ %);
- 3 Subtract the aggregate of previous payments made by the Owner; and
- 4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Paragraph 9.5 of AIA Document A201-1997.

5.1.7 The progress payment amount determined in accordance with Subparagraph 5.1.6 shall be further modified under the following circumstances:

- 1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and (*Subparagraph 9.8.5 of AIA Document A201-1997 requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.*)
- 2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Subparagraph 9.10.3 of AIA Document A201-1997.

5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

*(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Clauses 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)*

5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

## 5.2 FINAL PAYMENT

5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

- 1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Subparagraph 12.2.2 of AIA Document A201-1997, and to satisfy other requirements, if any, which extend beyond final payment; and
- 2 a final Certificate for Payment has been issued by the Architect.



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5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

#### ARTICLE 6 TERMINATION OR SUSPENSION

6.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-1997.

6.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-1997.

#### ARTICLE 7 MISCELLANEOUS PROVISIONS

7.1 Where reference is made in this Agreement to a provision of AIA Document A201-1997 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

7.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

*(Insert rate of interest agreed upon, if any.)*

*(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)*

7.3 The Owner's representative is:  
*(Name, address and other information)*

Mr. Richard Cerceo  
Mercy Hospital & Medical Center  
2525 S. Michigan Avenue  
Chicago, IL 60616-2477

7.4 The Contractor's representative is:  
*(Name, address and other information)*

Mr. Joseph F. Naumes  
National Wrecking Company  
2441 N. Leavitt Street  
Chicago, Illinois 60647-2005

7.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days' written notice to the other party.

7.6 Other provisions:

All references herein to "Architect" are replaced with "Owner".



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**ARTICLE 8 ENUMERATION OF CONTRACT DOCUMENTS**

8.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

8.1.1 The Agreement is this executed 1997 edition of the Standard Form of Agreement Between Owner and Contractor, AIA Document A101-1997.

8.1.2 The General Conditions are the 1997 edition of the General Conditions of the Contract for Construction, AIA Document A201-1997.

8.1.3 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated \_\_\_\_\_, and are as follows:

Document	Title	Pages
----------	-------	-------

8.1.4 The Specifications are those contained in the Project Manual dated as in Subparagraph 8.1.3, and are as follows:

*(Either list the Specifications here or refer to an exhibit attached to this Agreement.)*

Section	Title	Pages
---------	-------	-------

8.1.5 The Drawings are as follows, and are dated \_\_\_\_\_ unless a different date is shown below:

*(Either list the Drawings here or refer to an exhibit attached to this Agreement.)*

Number	Title	Date
--------	-------	------



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8.1.6 The Addenda, if any, are as follows:

Number	Date	Pages
--------	------	-------

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 8.

8.1.7 Other documents, if any, forming part of the Contract Documents are as follows:  
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-1997 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

National Wrecking Company's revised proposal for 2500 S. King Drive dated 1/16/06.

National Wrecking Company's revised proposal for 2510 S. King Drive dated 1/16/06.

*Rider to Agreement Between Owner and Contractor*

*Initial*  
~~*Mercy/Owner*~~  
~~*Contractor*~~

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies, of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.  
MERCY HOSPITAL & MEDICAL CENTER      NATIONAL WRECKING COMPANY

By: *Alberta Lyne*      By: *[Signature]*  
**OWNER** (Signature)      **CONTRACTOR** (Signature)

*kc* *Sister Sheila Lyne*      *Joseph F. Naumen*  
 (Printed name and title)      (Printed name and title) *Vice President*  
 President/CEO

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(773) 384-2800  
Fax: (773) 384-0403  
www.nationalwrecking.com

2441 N. LEAVITT STREET, CHICAGO, ILLINOIS 60647

January 16, 2006

Mr. Henry Lopez  
Central Station Development Corporation  
1211 South Michigan Avenue  
Chicago, Illinois 60605

Re: 2500 S. King Drive  
Chicago, Illinois

**REVISED  
PROPOSAL**

We propose to furnish all labor, tools and equipment necessary to demolish the one story building located at 2500 S. King Drive, Chicago, Illinois.

**SCOPE OF WORK:**

1. Obtain necessary permits and provide required notifications.
2. Terminate utilities. This includes one water service.
3. Completely demolish the building including its slab on grade and foundations.
4. Backfill the foundation removal area with on-site fill from under the floor slab area. This area shall be filled to approximately the level of the adjacent grades within the property lines.
5. All salvage and debris resulting from the work shall be removed from the site.

In consideration for the above work, a sum of \$20,800.00 shall be paid to the undersigned as the work progresses with the balance due upon completion.

The following items of work are excluded from this proposal.

1. All work associated with the removal and disposal of underground storage tanks.
2. The handling, removal and disposal of hazardous materials and asbestos containing materials.
3. Removal of paving, curbs, sidewalks, landscaping and fencing.
4. Escalation costs after 3/31/06.

January 16, 2006

Mr. Henry Lopez  
Central Station Development Corp.  
Page Two

Re: 2500 S. King Drive

**ALTERNATE:**

1. Remove the building foundations down to 6'-0" below the adjacent grade:  
**ADD: \$5,400.00**

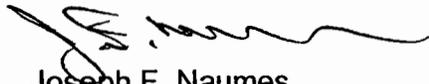
We maintain \$25,000,000.00 single limit public liability and property damage insurance with full contractual liability coverage at the same limits.

We appreciate this opportunity to quote you and look forward to serving you in the near future.

Very truly yours,

ACCEPTED:

NATIONAL WRECKING COMPANY



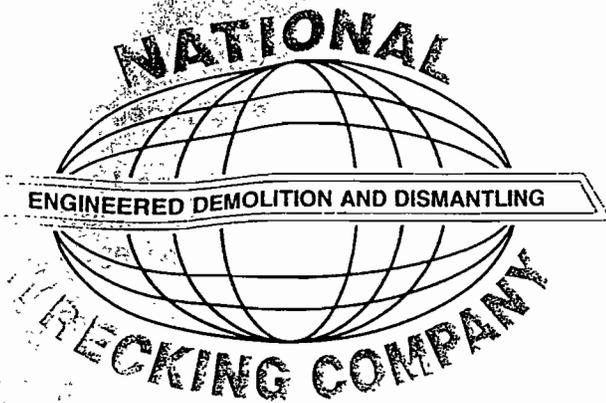
Joseph F. Naumes  
Vice President

\_\_\_\_\_

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

JFN/cc



2441 N. LEAVITT STREET, CHICAGO, ILLINOIS 60647

January 16, 2006

Mr. Henry Lopez  
Central Station Development Corporation  
1211 South Michigan Avenue  
Chicago, Illinois 60605

Re: 2510 S. King Drive  
Chicago, Illinois

**REVISED  
PROPOSAL**

We propose to furnish all labor, tools and equipment necessary to demolish the six story research building located at 2510 S. King Drive, Chicago, Illinois.

**SCOPE OF WORK:**

1. Obtain necessary permits and provide required notifications.
2. Terminate utilities. This includes one water service.
3. Remove asbestos containing materials in accordance with applicable local, state and federal regulations.
4. Completely demolish the building including its foundations down to 1' below the adjacent grade.
5. Backfill the basement area with hard fill from the demolition work. This area shall be filled to approximately the level of the adjacent grades within the property lines. The basement slab shall be cracked for drainage.
6. All salvage and debris resulting from the work shall be removed from the site.

In consideration for the above work, a sum of \$193,200.00 shall be paid to the undersigned as the work progresses with the balance due upon completion.

The following items of work are excluded from this proposal.

1. All work associated with the removal and disposal of underground storage tanks.
2. The handling, removal and disposal of hazardous materials and special wastes other than the asbestos containing materials included in Scope of Work item number 3.
3. Disconnection and relocation of utilities that come from or serve other buildings.
4. Removal or patching of paving and sidewalks adjacent to the building.
5. Escalation costs after 5/31/06.

January 16, 2006

Mr. Henry Lopez  
Central Station Development Corp.  
Page Two

Re: 2510 S. King Drive

**ALTERNATE:**

1. Remove the building foundations down to 6'-0 " below the adjacent grade:  
**ADD: \$14,600.00**

We maintain \$25,000,000.00 single limit public liability and property damage insurance with full contractual liability coverage at the same limits.

We appreciate this opportunity to quote you and look forward to serving you in the near future.

Very truly yours,

ACCEPTED:

NATIONAL WRECKING COMPANY



Joseph F. Naumes  
Vice President

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

JFN/cc

## **RIDER TO AGREEMENT BETWEEN OWNER AND CONTRACTOR**

This Rider is attached to and made a part of that AIA Document A101-1997 Standard Form of Agreement Between Owner and BETWEEN MERCY HOSPITAL AND MEDICAL CENTER ("Owner") and NATIONAL WRECKING COMPANY ("Contractor") dated January 16, 2006, and AIA Document A201-1997 General Conditions of the Construction, both of which are incorporated herein by reference. To the extent that the terms and provisions of this Rider conflict with the terms and provisions of said Agreement, the terms of this Rider shall control.

### **CHANGES TO AIA DOCUMENT A101-1997:**

The following Articles shall be amended to include the following:

**Article 2** The Contractor shall furnish only skilled and properly trained staff for the performance of the Work. The Contractor shall only employ labor on the Project or in connection with the Work capable of working harmoniously with all trades, crafts and any other individuals associated with the Project. The Contractor shall also use its best efforts to minimize the likelihood of any strike, work stoppage or other labor disturbance. If the Work is to be performed by trade unions, the Contractor shall make all necessary arrangements to reconcile, without delay, damage or cost to the Owner and without recourse to the Architect or the Owner, any conflict between the Contract Documents and any agreements or regulations of any kind at any time in force among members or councils which regulate or distinguish what activities shall not be included in the work of any particular trade.

**Article 7.6.3** Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents. The Contractor and each Subcontractor shall evaluate and satisfy themselves as to the conditions and limitations under which the Work is to be performed, including, without limitation (1) the location, condition, layout and nature of the Project site and surrounding areas, (2) generally prevailing climatic conditions, (3) anticipated labor supply and costs, (4) availability and cost of materials, tools and equipment and (5) other similar issues. The Owner assumes no responsibility or liability for the physical condition or safety of the Project site or any improvements located on the Project site. Notwithstanding anything to the contrary, the Owner shall not be required to make any adjustment in either the Contract Sum or Contract Time in connection with any failure by the Contractor or any Subcontractor to comply with the requirements of this Article. The Contractor shall, therefore, satisfy itself as to the accuracy of all grades, elevations, dimensions and locations. Any errors due to the Contractor's failure to so verify all such grades, elevations, locations or dimensions shall be promptly rectified by the Contractor without any additional cost to the Owner.

**Article 7.6.6** In the event of any dispute or controversy between the Owner and the Contractor arising under the Contract Documents, the Contractor shall diligently continue to prosecute the Work, ~~including any work in dispute~~, pending the resolution of any such dispute or controversy, and the Owner shall continue to make payments of all undisputed amounts required under the Contract Documents.

**Article 7.6.8** The Contractor represents and warrants the following to the Owner (in addition to any other representations and warranties contained in the Contract Documents) as a material inducement to the Owner to execute this Agreement, which representations and warranties shall survive the execution and delivery of this Agreement, any termination of this Agreement and the final completion of the Work:

- (a) the Contractor is financially solvent, able to pay all debts as they mature and possessed of sufficient working capital to complete the Work and perform all obligations hereunder;
- (b) the Contractor is able to furnish the plant, tools, materials, supplies, equipment and labor required to complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;
- (c) the Contractor is authorized to do business in the state and locality where the Project is located and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over the Contractor and over the Work and the Project;
- (d) the Contractor's execution of this Agreement and performance thereof is within the Contractor's duly authorized powers;
- (e) the Contractor possesses a high level of experience and expertise in the business administration, construction, construction management and superintendence of projects of the size, complexity and nature of this particular Project and will perform the Work with the care, skill and diligence of such a contractor.

**Article 7.6.10** Contractor (and any subcontractor into whose subcontract this clause is incorporated) agrees to assume the entire liability for all personal injury claims suffered by its own employees asserted by persons allegedly insured on the Project; waives any limitation of liability defense based upon the Worker's Compensation Act, court interpretations of said Act or otherwise; and agrees to indemnify and defend the Owner and the Architect and their agents, employees and consultants (the "Indemnitees") from and against all such loss, expense, damage or injury, including reasonable attorneys' fees, that the Indemnitees may sustain as a result of such claims, except to the extent that Illinois law prohibits indemnity for the Indemnitees' own negligence.

provide 10% MBE/WBE participation

**Article 8.1.8** Contractor is aware the Project is being financed in part in reliance on Tax Increment Financing ("TIF") furnished by the City of Chicago ("City"). Contractor understands that the Redevelopment Agreement to be executed between Owner and the City related to the TIF will contain obligations, including, without limitation, obligations concerning minority and women's participation, construction worker residency requirements, employment opportunities and prevailing wage requirements for the work force participating in the Project. Contractor understands that Owner is relying on Contractor to ~~comply with Owner's obligations to comply with such requirements~~ and agrees to execute an amendment to this Agreement to incorporate <sup>SUCA</sup> the requirements ~~of the final Redevelopment Agreement~~ into this Agreement and to provide for reimbursement and indemnification for failure to comply with such requirements.

CHANGES TO AIA DOCUMENT A201-1997:

Add the following paragraphs to the end of Paragraph 3.2:

3.2.4 Except as to any reported errors, inconsistencies or omissions, and to concealed or unknown conditions defined in Paragraph 4.3.6, by executing the Agreement, the Contractor represents the following:

- .1 The Contract Documents are sufficiently complete and detailed for the Contractor to (1) perform the Work required to produce the results intended by the Contract Documents and (2) comply with all the requirements of the Contract Documents.
- .2 ~~The performance of the Work required by the Contract Documents, including, without limitation, all construction details, construction means, methods, procedures and techniques necessary to perform the Work, use of materials, selection of equipment and requirements of product manufacturers are consistent with: (1) good and sound practices within the construction industry; (2) generally prevailing and accepted industry standards applicable to Work; (3) requirements of any warranties applicable to the Work; and (4) all laws, ordinances, regulations, rules and orders which bear upon the Contractor's performance of the Work.~~

Add the following language to the end of Paragraph 3.7.2:

The Contractor shall also obtain and pay all charges for all approvals for street closings, barricades and other similar matters as may be necessary or appropriate from time to time for the performance of the Work.

Add the following paragraphs to Paragraph 3.10:

3.10.4 The Owner shall have the right to direct a postponement or rescheduling of any date or time for the performance of any part of the Work that may interfere with the operation of the Owner's premises or any tenants or invitees thereof. The Contractor shall, upon the Owner's request, reschedule any portion of the Work affecting operation of the premises during hours when the premises are not in operation. Any postponement, rescheduling or performance of the

Work under this Paragraph 3.10.4 may be grounds for an extension of the Contract Time, if permitted under Paragraph 8.3.1, and an equitable adjustment in the Contract Sum if: (1) the performance of the Work was properly scheduled by the Contractor in compliance with the requirements of the Contract Documents and (2) such rescheduling or postponement is ~~required~~ *for the convenience of the Owner not caused by matters within the control of Contractor.*

Add the following subparagraph to Paragraph 3.13:

3.13.2 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the project site. Protection of construction materials and equipment stored at the project site from weather, theft, damage or all other adversity is the sole responsibility of the Contractor.

Revise the last sentence of subparagraph 3.15.1 to read as follows:

3.15.1 ...At completion of the Work, the Contractor shall promptly remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials.

Add the following subparagraph to Paragraph 3.15:

3.15.2.1 In the event that any Contractor or Subcontractor allows rubbish or waste material to accumulate on any portion of the project site or in any portion of the building to such extent that such accumulation constitutes a hazard or obstructs the performance of the Work in any way, the Architect or Owner may, after three (3) days prior notice to Contractor, with Contractor's failure to respond within such three day notice period, engage proper labor or services of another contractor to make necessary removal and disposition, and to charge cost against monies due Contractor.

3.15.3 Flammable and combustible materials shall be kept in metal cans with tight covers, and removed from the structure at end of each working day.

3.15.4 Contractor and each Subcontractor shall remove and dispose of all tools, equipment, surplus material and rubbish pertaining to their work.

Revise subparagraph 3.18.1 to read as follows:

3.18.1 The Contractor shall indemnify, defend, and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees and expenses, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be

construed to negate, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 3.18.

Delete all paragraphs in Paragraph 4.6 and substitute the following paragraph:

4.6.1 The Contractor and the Owner shall not be obligated to resolve any Claim or dispute related to the Contract by arbitration. Any reference herein to arbitration is deemed void.

Add the following clauses to the end of Paragraph 9.3.3:

- .1 Provided the Owner has paid the Contractor for work and materials underlying the subject claim or lien, the Contractor further expressly undertakes to defend the Indemnitees, at the Contractor's sole expense, against any actions, lawsuits or proceedings brought against Indemnitees as a result of liens filed against the Work, the site of any of the Work, the Project site and any improvements thereon (referred to collectively as liens in this Paragraph 9.3.3). The Contractor hereby agrees to indemnify and hold Indemnitees harmless against any such liens or claims of lien and agrees to pay any judgment or lien resulting from any such actions, lawsuits or proceedings; provided the Owner has paid the Contractor for work and materials underlying the subject claim or lien.
- .2 The Owner shall release any payments withheld due to a lien or claim of lien if the Contractor obtains security acceptable to the Owner or a lien bond which is: (1) issued by a surety acceptable to the Owner, (2) in form and substance satisfactory to the Owner, and (3) in an amount not less than One Hundred Fifty percent (150%) of such lien claim. By posting a lien bond or other acceptable security, however, the Contractor shall not be relieved of any responsibilities or obligations under this Paragraph 9.3, including, without limitation, the duty to defend and indemnify the Indemnitees. The cost of any premiums incurred in connection with such bonds and security shall be the responsibility of the Contractor and shall not be part of, or cause any adjustment to, the Contract Sum.
- .3 Notwithstanding the foregoing, unless the Contractor previously removed or insured over any mechanic's or materialman's lien by bond or otherwise, the Owner reserves the right to settle any disputed mechanic's or materialmen's lien claim by payments to the lien claimant or by such other means as the Owner, in conjunction with the Contractor, determines is the most economical or advantageous method of settling the dispute. The Contractor shall promptly reimburse the Owner, upon demand, any payments so made hereunder.

Add the following language to the end of Paragraph 10.2.3.:

The Contractor shall also be responsible, at the Contractor's sole cost and expense, for all measures necessary to protect any property adjacent to the Project and improvements therein. Any damage to such property or improvements shall be promptly repaired by the Contractor.

Add the following language to the end of Paragraph 10.2:

10.2.8 The Contractor shall promptly report in writing to the Owner and Architect all accidents arising out of or in connection with the Work which cause death, personal injury, or property damage, giving full details and statements of any witnesses. In addition, if death, serious personal injuries, or serious property damages are caused, the accident shall be reported immediately by telephone or messenger to the Owner and the Architect.

The provisions of subparagraph 10.2.4 are supplemented as follows:

10.2.4.1 When use or storage of explosives or other hazardous material or equipment or unusual construction methods are necessary, the Contractor shall give the Owner reasonable advance notice.

Revise subparagraph 10.3.1 to read as follows:

10.3.1 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall upon recognizing the condition, immediately stop Work in the affected area and immediately report the condition to the Owner and Architect by phone and in writing.

Revise subparagraph 10.3.3 to read as follows:

10.3.3 To the extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractor, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Subparagraph 10.3.1 and has not been rendered harmless by Owner's willful omission to act, only, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease, or to injury to or destruction of tangible property (other than the Work itself) and provided that such damage, loss or expense is not due to the sole negligence of a party seeking indemnity.

Revise subparagraph 10.4 to read as follows:

10.3 The Owner shall not be responsible under Paragraph 10.3 for materials and substances brought to the site by the Contractor.

Revise subparagraph 10.5 to read as follows:

10.5 If, without negligence on the part of the Contractor, including negligence in the selection and use of any materials and substances brought to the site by the Contractor, the Contractor is held liable for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

Delete subparagraph 11.3.2

Delete subparagraph 11.3.3

Delete last sentence in subparagraph 11.4.3

Revise subparagraph 11.4.4 to read as follows:

11.4.4 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if reasonably possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

**OWNER:**

**MERCY HOSPITAL AND MEDICAL CENTER,**  
an Illinois not-for-profit corporation

By: *Sheila Lipe*  
Its: *2/6/06*

**CONTRACTOR:**

**NATIONAL WRECKING COMPANY, an Illinois corporation**

By: *[Signature]* **15 FEB 06**  
Its: *V. LE PROSIDENT*



(773) 384-2800  
Fax: (773) 384-0403  
www.nationalwrecking.com

2441 N. LEAVITT STREET, CHICAGO, ILLINOIS 60647

June 15, 2006

Mr. John W. Bartusiewicz  
Director, Facilities Management & Engineering  
Mercy Hospital & Medical Center  
2525 S. Michigan Avenue  
Chicago, Illinois 60616-2477

Re: Demolition of the Buildings Located at  
2500 & 2510 S. King Drive  
Chicago, Illinois  
NWC 06-5870-02

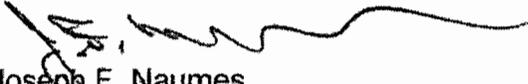
**CHANGE IN THE WORK**

Provide 25% MBE and 5% WBE participation and provide for 50% of National Wrecking Company's workers to be City of Chicago residents for the demolition of the buildings located at 2500 and 2510 S. King Drive, Chicago, Illinois.

Please add \$14,100.00 to our contract amount.

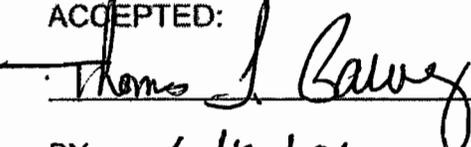
Very truly yours,

NATIONAL WRECKING COMPANY

  
Joseph F. Naumes  
Vice President

JFN/cc

ACCEPTED:

  
\_\_\_\_\_

BY: 6/16/06

DATE: \_\_\_\_\_



(773) 384-2800  
Fax: (773) 384-0403  
www.nationalwrecking.com

2441 N. LEAVITT STREET, CHICAGO, ILLINOIS 60647

February 20, 2006

BY MESSENGER

Mr. Richard F. Cerceo  
Chief Operating Officer  
Mercy Hospital & Medical Center  
2525 S. Michigan Ave.  
Chicago, IL 60616-2477

Re: Demolition of Buildings at  
2500 & 2510 S. King Dr.  
Chicago, Illinois  
(NWC #06-5870)

Dear Mr. Cerceo:

Enclosed are the fully executed and initialed originals of the contract and the rider for the above-referenced project. We have made certain revisions to the rider and initialed same. Please initial the revisions to the rider and return one original to my attention.

Please contact me if you wish to discuss this matter further.

Very truly yours,

NATIONAL WRECKING COMPANY

Matthew J. Hughes  
General Counsel

MJH/am

Encl.

## RIDER TO AGREEMENT BETWEEN OWNER AND CONTRACTOR

This Rider is attached to and made a part of that AIA Document A101-1997 Standard Form of Agreement Between Owner and BETWEEN MERCY HOSPITAL AND MEDICAL CENTER ("Owner") and NATIONAL WRECKING COMPANY ("Contractor") dated January 16, 2006, and AIA Document A201-1997 General Conditions of the Construction, both of which are incorporated herein by reference. To the extent that the terms and provisions of this Rider conflict with the terms and provisions of said Agreement, the terms of this Rider shall control.

### CHANGES TO AIA DOCUMENT A101-1997:

The following Articles shall be amended to include the following:

**Article 2** The Contractor shall furnish only skilled and properly trained staff for the performance of the Work. The Contractor shall only employ labor on the Project or in connection with the Work capable of working harmoniously with all trades, crafts and any other individuals associated with the Project. The Contractor shall also use its best efforts to minimize the likelihood of any strike, work stoppage or other labor disturbance. If the Work is to be performed by trade unions, the Contractor shall make all necessary arrangements to reconcile, without delay, damage or cost to the Owner and without recourse to the Architect or the Owner, any conflict between the Contract Documents and any agreements or regulations of any kind at any time in force among members or councils which regulate or distinguish what activities shall not be included in the work of any particular trade.

**Article 7.6.3** Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents. The Contractor and each Subcontractor shall evaluate and satisfy themselves as to the conditions and limitations under which the Work is to be performed, including, without limitation (1) the location, condition, layout and nature of the Project site and surrounding areas, (2) generally prevailing climatic conditions, (3) anticipated labor supply and costs, (4) availability and cost of materials, tools and equipment and (5) other similar issues. The Owner assumes no responsibility or liability for the physical condition or safety of the Project site or any improvements located on the Project site. Notwithstanding anything to the contrary, the Owner shall not be required to make any adjustment in either the Contract Sum or Contract Time in connection with any failure by the Contractor or any Subcontractor to comply with the requirements of this Article. The Contractor shall, therefore, satisfy itself as to the accuracy of all grades, elevations, dimensions and locations. Any errors due to the Contractor's failure to so verify all such grades, elevations, locations or dimensions shall be promptly rectified by the Contractor without any additional cost to the Owner.

**Article 7.6.6** In the event of any dispute or controversy between the Owner and the Contractor arising under the Contract Documents, the Contractor shall diligently continue to prosecute the Work, ~~including any work in dispute~~, pending the resolution of any such dispute or controversy, and the Owner shall continue to make payments of all undisputed amounts required under the Contract Documents.

**Article 7.6.8** The Contractor represents and warrants the following to the Owner (in addition to any other representations and warranties contained in the Contract Documents) as a material inducement to the Owner to execute this Agreement, which representations and warranties shall survive the execution and delivery of this Agreement, any termination of this Agreement and the final completion of the Work:

- (a) the Contractor is financially solvent, able to pay all debts as they mature and possessed of sufficient working capital to complete the Work and perform all obligations hereunder;
- (b) the Contractor is able to furnish the plant, tools, materials, supplies, equipment and labor required to complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;
- (c) the Contractor is authorized to do business in the state and locality where the Project is located and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over the Contractor and over the Work and the Project;
- (d) the Contractor's execution of this Agreement and performance thereof is within the Contractor's duly authorized powers;
- (e) the Contractor possesses a high level of experience and expertise in the business administration, construction, construction management and superintendence of projects of the size, complexity and nature of this particular Project and will perform the Work with the care, skill and diligence of such a contractor.

**Article 7.6.10** Contractor (and any subcontractor into whose subcontract this clause is incorporated) agrees to assume the entire liability for all personal injury claims suffered by its own employees asserted by persons allegedly insured on the Project; waives any limitation of liability defense based upon the Worker's Compensation Act, court interpretations of said Act or otherwise; and agrees to indemnify and defend the Owner and the Architect and their agents, employees and consultants (the "Indemnitees") from and against all such loss, expense, damage or injury, including reasonable attorneys' fees, that the Indemnitees may sustain as a result of such claims, except to the extent that Illinois law prohibits indemnity for the Indemnitees' own negligence.

provide 10% MBE/WBE participation

**Article 8.1.8** Contractor is aware the Project is being financed in part in reliance on Tax Increment Financing ("TIF") furnished by the City of Chicago ("City"). Contractor understands that the Redevelopment Agreement to be executed between Owner and the City related to the TIF will contain obligations, including, without limitation, obligations concerning minority and women's participation, construction worker residency requirements, employment opportunities and prevailing wage requirements for the work force participating in the Project. Contractor understands that Owner is relying on Contractor to ~~comply with Owner's obligations to comply with such requirements~~ and agrees to execute an amendment to this Agreement to incorporate <sup>such</sup> the requirements ~~of the final Redevelopment Agreement~~ into this Agreement and to provide for reimbursement and indemnification for failure to comply with such requirements.

CHANGES TO AIA DOCUMENT A201-1997:

Add the following paragraphs to the end of Paragraph 3.2:

3.2.4 Except as to any reported errors, inconsistencies or omissions, and to concealed or unknown conditions defined in Paragraph 4.3.6, by executing the Agreement, the Contractor represents the following:

- .1 The Contract Documents are sufficiently complete and detailed for the Contractor to (1) perform the Work required to produce the results intended by the Contract Documents and (2) comply with all the requirements of the Contract Documents.
- .2 ~~The performance of the Work required by the Contract Documents, including, without limitation, all construction details, construction means, methods, procedures and techniques necessary to perform the Work, use of materials, selection of equipment and requirements of product manufacturers are consistent with: (1) good and sound practices within the construction industry; (2) generally prevailing and accepted industry standards applicable to Work; (3) requirements of any warranties applicable to the Work; and (4) all laws, ordinances, regulations, rules and orders which bear upon the Contractor's performance of the Work.~~

Add the following language to the end of Paragraph 3.7.2:

The Contractor shall also obtain and pay all charges for all approvals for street closings, barricades and other similar matters as may be necessary or appropriate from time to time for the performance of the Work.

Add the following paragraphs to Paragraph 3.10:

3.10.4 The Owner shall have the right to direct a postponement or rescheduling of any date or time for the performance of any part of the Work that may interfere with the operation of the Owner's premises or any tenants or invitees thereof. The Contractor shall, upon the Owner's request, reschedule any portion of the Work affecting operation of the premises during hours when the premises are not in operation. Any postponement, rescheduling or performance of the

Work under this Paragraph 3.10.4 may be grounds for an extension of the Contract Time, if permitted under Paragraph 8.3.1, and an equitable adjustment in the Contract Sum if: (1) the performance of the Work was properly scheduled by the Contractor in compliance with the requirements of the Contract Documents and (2) such rescheduling or postponement is ~~required for the convenience of the Owner~~ *not caused by matters within the control of Contractor.*

Add the following subparagraph to Paragraph 3.13:

3.13.2 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the project site. Protection of construction materials and equipment stored at the project site from weather, theft, damage or all other adversity is the sole responsibility of the Contractor.

Revise the last sentence of subparagraph 3.15.1 to read as follows:

3.15.1 ...At completion of the Work, the Contractor shall promptly remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials.

Add the following subparagraph to Paragraph 3.15:

3.15.2.1 In the event that any Contractor or Subcontractor allows rubbish or waste material to accumulate on any portion of the project site or in any portion of the building to such extent that such accumulation constitutes a hazard or obstructs the performance of the Work in any way, the Architect or Owner may, after three (3) days prior notice to Contractor, with Contractor's failure to respond within such three day notice period, engage proper labor or services of another contractor to make necessary removal and disposition, and to charge cost against monies due Contractor.

3.15.3 Flammable and combustible materials shall be kept in metal cans with tight covers, and removed from the structure at end of each working day.

3.15.4 Contractor and each Subcontractor shall remove and dispose of all tools, equipment, surplus material and rubbish pertaining to their work.

Revise subparagraph 3.18.1 to read as follows:

3.18.1 The Contractor shall indemnify, defend, and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees and expenses, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be

construed to negate, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 3.18.

Delete all paragraphs in Paragraph 4.6 and substitute the following paragraph:

4.6.1 The Contractor and the Owner shall not be obligated to resolve any Claim or dispute related to the Contract by arbitration. Any reference herein to arbitration is deemed void.

Add the following clauses to the end of Paragraph 9.3.3:

- .1 Provided the Owner has paid the Contractor for work and materials underlying the subject claim or lien, the Contractor further expressly undertakes to defend the Indemnitees, at the Contractor's sole expense, against any actions, lawsuits or proceedings brought against Indemnitees as a result of liens filed against the Work, the site of any of the Work, the Project site and any improvements thereon (referred to collectively as liens in this Paragraph 9.3.3). The Contractor hereby agrees to indemnify and hold Indemnitees harmless against any such liens or claims of lien and agrees to pay any judgment or lien resulting from any such actions, lawsuits or proceedings; provided the Owner has paid the Contractor for work and materials underlying the subject claim or lien.
- .2 The Owner shall release any payments withheld due to a lien or claim of lien if the Contractor obtains security acceptable to the Owner or a lien bond which is: (1) issued by a surety acceptable to the Owner, (2) in form and substance satisfactory to the Owner, and (3) in an amount not less than One Hundred Fifty percent (150%) of such lien claim. By posting a lien bond or other acceptable security, however, the Contractor shall not be relieved of any responsibilities or obligations under this Paragraph 9.3, including, without limitation, the duty to defend and indemnify the Indemnitees. The cost of any premiums incurred in connection with such bonds and security shall be the responsibility of the Contractor and shall not be part of, or cause any adjustment to, the Contract Sum.
- .3 Notwithstanding the foregoing, unless the Contractor previously removed or insured over any mechanic's or materialman's lien by bond or otherwise, the Owner reserves the right to settle any disputed mechanic's or materialmen's lien claim by payments to the lien claimant or by such other means as the Owner, in conjunction with the Contractor, determines is the most economical or advantageous method of settling the dispute. The Contractor shall promptly reimburse the Owner, upon demand, any payments so made hereunder.

Add the following language to the end of Paragraph 10.2.3.:

The Contractor shall also be responsible, at the Contractor's sole cost and expense, for all measures necessary to protect any property adjacent to the Project and improvements therein. Any damage to such property or improvements shall be promptly repaired by the Contractor.

Add the following language to the end of Paragraph 10.2:

10.2.8 The Contractor shall promptly report in writing to the Owner and Architect all accidents arising out of or in connection with the Work which cause death, personal injury, or property damage, giving full details and statements of any witnesses. In addition, if death, serious personal injuries, or serious property damages are caused, the accident shall be reported immediately by telephone or messenger to the Owner and the Architect.

The provisions of subparagraph 10.2.4 are supplemented as follows:

10.2.4.1 When use or storage of explosives or other hazardous material or equipment or unusual construction methods are necessary, the Contractor shall give the Owner reasonable advance notice.

Revise subparagraph 10.3.1 to read as follows:

10.3.1 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall upon recognizing the condition, immediately stop Work in the affected area and immediately report the condition to the Owner and Architect by phone and in writing.

Revise subparagraph 10.3.3 to read as follows:

10.3.3 To the extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractor, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Subparagraph 10.3.1 and has not been rendered harmless by Owner's willful omission to act, only, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease, or to injury to or destruction of tangible property (other than the Work itself) and provided that such damage, loss or expense is not due to the sole negligence of a party seeking indemnity.

Revise subparagraph 10.4 to read as follows:

10.3 The Owner shall not be responsible under Paragraph 10.3 for materials and substances brought to the site by the Contractor.

Revise subparagraph 10.5 to read as follows:

10.5 If, without negligence on the part of the Contractor, including negligence in the selection and use of any materials and substances brought to the site by the Contractor, the Contractor is held liable for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

Delete subparagraph 11.3.2

Delete subparagraph 11.3.3

Delete last sentence in subparagraph 11.4.3

Revise subparagraph 11.4.4 to read as follows:

11.4.4 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if reasonably possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

**OWNER:**

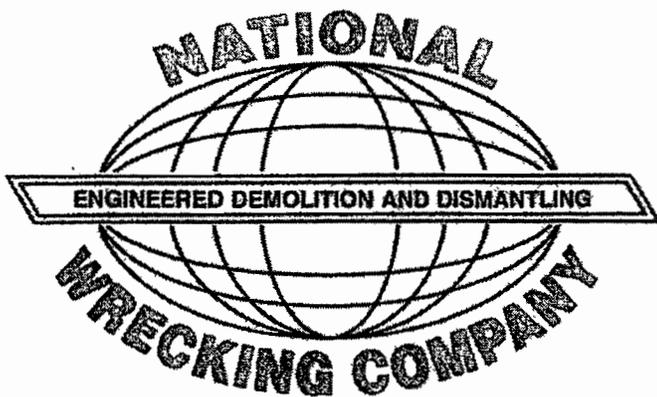
**MERCY HOSPITAL AND MEDICAL  
CENTER,**  
an Illinois not-for-profit corporation

By: *Alpeila Lynn*  
Its: CEO

**CONTRACTOR:**

**NATIONAL WRECKING COMPANY, an  
Illinois corporation**

By: *[Signature]* 15FEB06  
Its: VICE PRESIDENT



(773) 384-2800  
Fax: (773) 384-0403  
www.nationalwrecking.com

2441 N. LEAVITT STREET, CHICAGO, ILLINOIS 60647

May 17, 2006

Mr. John W. Bartusiewicz  
Director, Facilities Management & Engineering  
Mercy Hospital & Medical Center  
2525 S. Michigan Avenue  
Chicago, Illinois 60616-2477

Re: Demolition of the Buildings Located at  
2500 & 2510 S. King Drive  
Chicago, Illinois  
NWC 06-5870-01

**CHANGE IN THE WORK**

Include escalation costs after 5/31/06 for the demolition of 2510 S. King Drive.

Please add \$7,200.00 to our contract amount.

Very truly yours,

NATIONAL WRECKING COMPANY

Joseph F. Naumes  
Vice President

JFN/cc

ACCEPTED:

BY: COO  
DATE: 5/18/06



(773) 384-2800  
Fax: (773) 384-0403  
www.nationalwrecking.com

2441 N. LEAVITT STREET, CHICAGO, ILLINOIS 60647

June 15, 2006

Mr. John W. Bartusiewicz  
Director, Facilities Management & Engineering  
Mercy Hospital & Medical Center  
2525 S. Michigan Avenue  
Chicago, Illinois 60616-2477

Re: Demolition of the Buildings Located at  
2500 & 2510 S. King Drive  
Chicago, Illinois  
NWC 06-5870-02

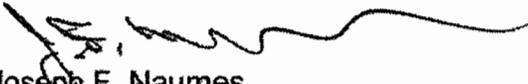
**CHANGE IN THE WORK**

Provide 25% MBE and 5% WBE participation and provide for 50% of National Wrecking Company's workers to be City of Chicago residents for the demolition of the buildings located at 2500 and 2510 S. King Drive, Chicago, Illinois.

Please add \$14,100.00 to our contract amount.

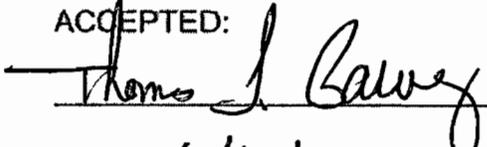
Very truly yours,

NATIONAL WRECKING COMPANY

  
Joseph F. Naumes  
Vice President

JFN/cc

ACCEPTED:

  
\_\_\_\_\_

BY: 6/16/06

DATE: \_\_\_\_\_

COPY



**AIA**<sup>®</sup>

**Document A101<sup>™</sup> – 1997**

**Standard Form of Agreement Between Owner and Contractor**  
*where the basis of payment is a STIPULATED SUM*

AGREEMENT made as of the THIRD DAY OF MARCH day of  
in the year of 2006  
*(In words, indicate day, month and year)*

**BETWEEN** the Owner:  
*(Name, address and other information)*

Mercy Hospital And Medical Center  
2525 South Michigan Ave.  
Chicago, IL 60615

and the Contractor:  
*(Name, address and other information)*

J.L. Bruke Contracting, Inc.  
18927 Hickory Creek Drive  
Suite # 210  
Mokena, IL 60448

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201-1997, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

This document has been approved and endorsed by The Associated General Contractors of America.

The Project is:  
*(Name and location)*

Parking Improvements for Lot H, Lot G,  
And Lot C  
Mercy Hospital And Medical Center  
2525 South Michigan Ave.  
Chicago, IL 60615

The Architect is:  
*(Name, address and other information)*

Shah Engineering, Inc.  
One IBM Plaza  
330 N. Wabash Ave.  
Suite 3200  
Chicago, IL 60611

The Owner and Contractor agree as follows.

**ARTICLE 1 THE CONTRACT DOCUMENTS**

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 8.

**ARTICLE 2 THE WORK OF THIS CONTRACT**

The Contractor shall fully execute the Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

**ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

*(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)*

Per early access of work agreement March 2006

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanic's liens and other security interests, the Owner's time requirement shall be as follows:

N/A

§ 3.2 The Contract Time shall be measured from the date of commencement.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than 150 days from the date of commencement, or as follows:

*(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. Unless stated elsewhere in the Contract Documents, insert any requirements for earlier Substantial Completion of certain portions of the Work.)*

, subject to adjustments of this Contract Time as provided in the Contract Documents.

*(Insert provisions, if any, for liquidated damages relating to failure to complete on time or for bonus payments for early completion of the Work.)*

\$800.00 per day

**ARTICLE 4 CONTRACT SUM**

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be One Million Two Hundred Sixty Six Thousand and Six Dollars (\$ 1,266,657.11 ), subject to additions and deductions as provided in the Contract Documents.

(Not to exceed)

Hundred & 11/10

§ 4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

*(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires)*

N/A

§ 4.3 Unit prices, if any, are as follows:

Guaranteed Maximum Price as shown on bid documents should not exceed. Unit Prices as per in contractors bid documents. These prices shall not increase by any change in material, Prices, wage rates, or any other escalatory factors. The Unit price as listed will be applied to the next change on any given change to scope of work.

## ARTICLE 5 PAYMENTS

### § 5.1 PROGRESS PAYMENTS

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

N/A

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 5th day of a month, the Owner shall make payment to the Contractor not later than the 30th day of the next month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than 60 (sixty) days after the Architect receives the Application for Payment.

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of percent ( 10 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.8 of AIA Document A201-1997;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of ten percent ( 10 %);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-1997.

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and  
(Section 9.8.5 of AIA Document A201-1997 requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201-1997.

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

*(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)*

N/A

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

## § 5.2 FINAL PAYMENT

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-1997, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

After completion of final punch list items.

## ARTICLE 6 TERMINATION OR SUSPENSION

§ 6.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-1997.

§ 6.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-1997.

**ARTICLE 7 MISCELLANEOUS PROVISIONS**

§ 7.1 Where reference is made in this Agreement to a provision of AIA Document A201-1997 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 7.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. *(Insert rate of interest agreed upon, if any.)*

N/A

*(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)*

§ 7.3 The Owner's representative is:  
*(Name, address and other information)*

Shah Engineering, Inc.  
One IBM Plaza  
330 N. Wabash Ave.  
Suite 3200  
Chicago, IL 60611

§ 7.4 The Contractor's representative is:  
*(Name, address and other information)*

J.L. Bruke Contracting, Inc.  
18927 Hickory Creek Drive  
Suite 210  
Mokena, IL 60448

§ 7.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days written notice to the other party.

§ 7.6 Other provisions:

N/A

**ARTICLE 8 ENUMERATION OF CONTRACT DOCUMENTS**

§ 8.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

§ 8.1.1 The Agreement is this executed 1997 edition of the Standard Form of Agreement Between Owner and Contractor, AIA Document A101-1997.

§ 8.1.2 The General Conditions are the 1997 edition of the General Conditions of the Contract for Construction, AIA Document A201-1997.

§ 8.1.3 The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated \_\_\_\_\_, and are as follows:

Document	Title	Pages
N/A		

§ 8.1.4 The Specifications are those contained in the Project Manual dated as in Section 8.1.3, and are as follows: *(Either list the Specifications here or refer to an exhibit attached to this Agreement.)*

Section	Title	Pages
N/A		

§ 8.1.5 The Drawings are as follows, and are dated 1/31/06 issued for unless a different date is shown below:

*(Either list the Drawings here or refer to an exhibit attached to this Agreement.)* bid

Number	Title	Date
G-101	Civil	1/31/06
C-101	Site Plan	same as above
C-102 through C-113	Civil Drawings	same as above
E-201 through E-204	Electrical Dwgs.	same as above
L-101 through L-104	Landscape Dwgs.	same as above

§ 8.1.6 The Addenda, if any, are as follows:

Number	Date	Pages
1	2/10/06	1

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 8.

§ 8.1.7 Other documents, if any, forming part of the Contract Documents are as follows:

*(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-1997 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)*

Invitation to bid dated 2/10/06

Rider to Agreement Between Owner and Contractor  
dated of even date herewith.

Initial  
AK Owner  
LB Contractor

This Agreement is entered into as of the day and year first written above and is executed in at least three original copies, of which one is to be delivered to the Contractor, one to the Architect for use in the administration of the Contract, and the remainder to the Owner.

Sheila Lyne  
OWNER (Signature)

MERCY HOSPITAL AND MEDICAL CENTER  
Sister Sheila Lyne  
(Printed name and title)  
President/CEO

James L. Burke  
CONTRACTOR (Signature)

JAMES L. BURKE - PRESIDENT  
(Printed name and title)

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

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AC

## RIDER TO AGREEMENT BETWEEN OWNER AND CONTRACTOR

This Rider is attached to and made a part of that AIA Document A101-1997 Standard Form of Agreement Between Owner and BETWEEN MERCY HOSPITAL AND MEDICAL CENTER ("Owner") and J.L. BURKE CONTRACTING, INC. ("Contractor") dated March 3, 2006, and AIA Document A201-1997 General Conditions of the Construction, both of which are incorporated herein by reference. To the extent that the terms and provisions of this Rider conflict with the terms and provisions of said Agreement, the terms of this Rider shall control.

### CHANGES TO AIA DOCUMENT A101-1997:

The following Articles shall be amended to include the following:

- Article 2** The Contractor shall furnish only skilled and properly trained staff for the performance of the Work. The Contractor shall only employ labor on the Project or in connection with the Work capable of working harmoniously with all trades, crafts and any other individuals associated with the Project. The Contractor shall also use its best efforts to minimize the likelihood of any strike, work stoppage or other labor disturbance. If the Work is to be performed by trade unions, the Contractor shall make all necessary arrangements to reconcile, without delay, damage or cost to the Owner and without recourse to the Architect or the Owner, any conflict between the Contract Documents and any agreements or regulations of any kind at any time in force among members or councils which regulate or distinguish what activities shall not be included in the work of any particular trade.
- Article 5.2.2** The following provision is inserted in lieu of the typewritten material in Section 5.2.2: Final Payment shall be made by the Owner to the Contractor within thirty (30) days after the last to occur of: (a) final completion of the Work including all punch list items, (b) the date the Architect issues his final certificate of payment in accordance with subparagraph 9.10.1 of the General Conditions, or (c) the date the Contractor submits all of the affidavits, documents and consents required to be provided in accordance with Subparagraph 9.10.2 of the General Conditions. Final payment shall not constitute approval or acceptance of any item of cost included therein, the items of cost being subject to final audit and adjustment by Owner for a reasonable time after the making of the final payment.
- Article 7.2** The following provision is inserted in lieu of the typewritten material in Section 7.2: or the then-current Wall Street Journal Prime Rate plus 2%, which ever is lower.
- Article 7.6.3** Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents. The Contractor and each Subcontractor shall evaluate and satisfy themselves as to the conditions and limitations under which the Work is to be performed, including, without limitation (1) the location,

condition, layout and nature of the Project site and surrounding areas, (2) generally prevailing climatic conditions, (3) anticipated labor supply and costs, (4) availability and cost of materials, tools and equipment and (5) other similar issues. The Owner assumes no responsibility or liability for the physical condition or safety of the Project site or any improvements located on the Project site. Notwithstanding anything to the contrary, the Owner shall not be required to make any adjustment in either the Contract Sum or Contract Time in connection with any failure by the Contractor or any Subcontractor to comply with the requirements of this Article. The Contractor shall, therefore, satisfy itself as to the accuracy of all grades, elevations, dimensions and locations. Any errors due to the Contractor's failure to so verify all such grades, elevations, locations or dimensions shall be promptly rectified by the Contractor without any additional cost to the Owner.

**Article 7.6.6.** In the event of any dispute or controversy between the Owner and the Contractor arising under the Contract Documents, the Contractor shall diligently continue to prosecute the Work, including any work in dispute, pending the resolution of any such dispute or controversy, and the Owner shall continue to make payments of all undisputed amounts required under the Contract Documents.

**Article 7.6.8** The Contractor represents and warrants the following to the Owner (in addition to any other representations and warranties contained in the Contract Documents) as a material inducement to the Owner to execute this Agreement, which representations and warranties shall survive the execution and delivery of this Agreement; any termination of this Agreement and the final completion of the Work:

- (a) the Contractor is financially solvent, able to pay all debts as they mature and possessed of sufficient working capital to complete the Work and perform all obligations hereunder;
- (b) the Contractor is able to furnish the plant, tools, materials, supplies, equipment and labor required to complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;
- (c) the Contractor is authorized to do business in the state and locality where the Project is located and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over the Contractor and over the Work and the Project;
- (d) the Contractor's execution of this Agreement and performance thereof is within the Contractor's duly authorized powers;
- (e) the Contractor possesses a high level of experience and expertise in the business administration, construction, construction management and superintendence of projects of the size, complexity and nature of this

particular Project and will perform the Work with the care, skill and diligence of such a contractor.

**Article 7.6.10** Contractor (and any subcontractor into whose subcontract this clause is incorporated) agrees to assume the entire liability for all personal injury claims suffered by its own employees asserted by persons allegedly insured on the Project; waives any limitation of liability defense based upon the Worker's Compensation Act, court interpretations of said Act or otherwise; and agrees to indemnify and defend the Owner and the Architect and their agents, employees and consultants (the "Indemnitees") from and against all such loss, expense, damage or injury, including reasonable attorneys' fees, that the Indemnitees may sustain as a result of such claims, except to the extent that Illinois law prohibits indemnity for the Indemnitees' own negligence.

**Article 8.1.7** -Bid Form – Stipulated Price dated February 28, 2006 from Contractor  
-Letter dated March 7, 2006 from Contractor to Owner  
-Rider to Agreement between Owner and Contractor of even date herewith, including Economic Opportunity Plan Requirements Addendum Attached thereto as Exhibit A.

CHANGES TO AIA DOCUMENT A201-1997:

Add the following paragraphs to the end of Paragraph 3.2:

3.2.4 Except as to any reported errors, inconsistencies or omissions, and to concealed or unknown conditions defined in Paragraph 4.3.6, by executing the Agreement, the Contractor represents the following:

- .1 The Contract Documents are sufficiently complete and detailed for the Contractor to (1) perform the Work required to produce the results intended by the Contract Documents and (2) comply with all the requirements of the Contract Documents.
- .2 The performance of the Work required by the Contract Documents, including, without limitation, all construction details, construction means, methods, procedures and techniques necessary to perform the Work, use of materials, selection of equipment and requirements of product manufacturers are consistent with: (1) good and sound practices within the construction industry; (2) generally prevailing and accepted industry standards applicable to Work; (3) requirements of any warranties applicable to the Work; and (4) all laws, ordinances, regulations, rules and orders which bear upon the Contractor's performance of the Work.

Add the following language to the end of Paragraph 3.7.2:

The Contractor shall also obtain and pay all charges for all approvals for street closings, barricades and other similar matters as may be necessary or appropriate from time to time for the performance of the Work.

Add the following paragraphs to Paragraph 3.10:

3.10.4 The Owner shall have the right to direct a postponement or rescheduling of any date or time for the performance of any part of the Work that may interfere with the operation of the Owner's premises or any tenants or invitees thereof. The Contractor shall, upon the Owner's request, reschedule any portion of the Work affecting operation of the premises during hours when the premises are not in operation. Any postponement, rescheduling or performance of the Work under this Paragraph 3.10.4 may be grounds for an extension of the Contract Time, if permitted under Paragraph 8.3.1, and an equitable adjustment in the Contract Sum if: (1) the performance of the Work was properly scheduled by the Contractor in compliance with the requirements of the Contract Documents and (2) such rescheduling or postponement is required for the convenience of the Owner.

Add the following subparagraph to Paragraph 3.13:

3.13.2 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the project site. Protection of construction materials and equipment stored at the project site from weather, theft, damage or all other adversity is the sole responsibility of the Contractor.

Revise the last sentence of subparagraph 3.15.1 to read as follows:

3.15.1 ...At completion of the Work, the Contractor shall promptly remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials.

Add the following subparagraph to Paragraph 3.15:

3.15.2.1 In the event that any Contractor or Subcontractor allows rubbish or waste material to accumulate on any portion of the project site or in any portion of the building to such extent that such accumulation constitutes a hazard or obstructs the performance of the Work in any way, the Architect or Owner may, after three (3) days prior notice to Contractor, with Contractor's failure to respond within such three day notice period, engage proper labor or services of another contractor to make necessary removal and disposition, and to charge cost against monies due Contractor.

3.15.3 Flammable and combustible materials shall be kept in metal cans with tight covers, and removed from the structure at end of each working day.

3.15.4 Contractor and each Subcontractor shall remove and dispose of all tools, equipment, surplus material and rubbish pertaining to their work.

Revise subparagraph 3.18.1 to read as follows:

3.18.1 The Contractor shall indemnify, defend, and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims,

damages, losses and expenses, including but not limited to attorney's fees and expenses, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 3.18.

Delete all paragraphs in Paragraph 4.6 and substitute the following paragraph:

4.6.1 The Contractor and the Owner shall not be obligated to resolve any Claim or dispute related to the Contract by arbitration. Any reference herein to arbitration is deemed void.

Add the following clauses to the end of Paragraph 9.3.3:

- .1 Provided the Owner has paid the Contractor for work and materials underlying the subject claim or lien, the Contractor further expressly undertakes to defend the Indemnitees, at the Contractor's sole expense, against any actions, lawsuits or proceedings brought against Indemnitees as a result of liens filed against the Work, the site of any of the Work, the Project site and any improvements thereon (referred to collectively as liens in this Paragraph 9.3.3). The Contractor hereby agrees to indemnify and hold Indemnitees harmless against any such liens or claims of lien and agrees to pay any judgment or lien resulting from any such actions, lawsuits or proceedings; provided the Owner has paid the Contractor for work and materials underlying the subject claim or lien.
- .2 The Owner shall release any payments withheld due to a lien or claim of lien if the Contractor obtains security acceptable to the Owner or a lien bond which is: (1) issued by a surety acceptable to the Owner, (2) in form and substance satisfactory to the Owner, and (3) in an amount not less than One Hundred Fifty percent (150%) of such lien claim. By posting a lien bond or other acceptable security, however, the Contractor shall not be relieved of any responsibilities or obligations under this Paragraph 9.3, including, without limitation, the duty to defend and indemnify the Indemnitees. The cost of any premiums incurred in connection with such bonds and security shall be the responsibility of the Contractor and shall not be part of, or cause any adjustment to, the Contract Sum.
- .3 Notwithstanding the foregoing, unless the Contractor previously removed or insured over any mechanic's or materialman's lien by bond or otherwise, the Owner reserves the right to settle any disputed mechanic's or materialmen's lien claim by payments to the lien claimant or by such other means as the Owner, in conjunction with the Contractor, determines is the most economical or advantageous method of settling the dispute. The Contractor shall promptly reimburse the Owner, upon demand, any payments so made hereunder.

Add the following language to the end of Paragraph 10.2.3.:

The Contractor shall also be responsible, at the Contractor's sole cost and expense, for all measures necessary to protect any property adjacent to the Project and improvements therein. Any damage to such property or improvements shall be promptly repaired by the Contractor.

Add the following language to the end of Paragraph 10.2:

10.2.8 The Contractor shall promptly report in writing to the Owner and Architect all accidents arising out of or in connection with the Work which cause death, personal injury, or property damage, giving full details and statements of any witnesses. In addition, if death, serious personal injuries, or serious property damages are caused, the accident shall be reported immediately by telephone or messenger to the Owner and the Architect.

The provisions of subparagraph 10.2.4 are supplemented as follows:

10.2.4.1 When use or storage of explosives or other hazardous material or equipment or unusual construction methods are necessary, the Contractor shall give the Owner reasonable advance notice.

Revise subparagraph 10.3.1 to read as follows:

10.3.1 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall upon recognizing the condition, immediately stop Work in the affected area and immediately report the condition to the Owner and Architect by phone and in writing.

Revise subparagraph 10.3.3 to read as follows:

10.3.3 To the extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractor, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Subparagraph 10.3.1 and has not been rendered harmless by Owner's willful omission to act, only, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease, or to injury to or destruction of tangible property (other than the Work itself) and provided that such damage, loss or expense is not due to the sole negligence of a party seeking indemnity.

Revise subparagraph 10.4 to read as follows:

10.3 The Owner shall not be responsible under Paragraph 10.3 for materials and substances brought to the site by the Contractor.

Revise subparagraph 10.5 to read as follows:

10.5 If, without negligence on the part of the Contractor, including negligence in the selection and use of any materials and substances brought to the site by the Contractor, the Contractor is held liable for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

Delete subparagraph 11.3.2

Delete subparagraph 11.3.3

Delete last sentence in subparagraph 11.4.3

Revise subparagraph 11.4.4 to read as follows:

11.4.4 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if reasonably possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

**OWNER:**

**MERCY HOSPITAL AND MEDICAL CENTER,**  
an Illinois not-for-profit corporation

**CONTRACTOR:**

**J.L. BURKE CONTRACTING, INC.,** an Illinois corporation

By: *Shelda Lyne*  
Its: *President/CEO*

By: \_\_\_\_\_  
Its: \_\_\_\_\_

AC

EXHIBIT A  
TO RIDER TO AGREEMENT BETWEEN  
OWNER AND CONTRACTOR

**ECONOMIC OPPORTUNITY PLAN REQUIREMENT**

**I. INTRODUCTION**

The Owner is committed to the goal of enhancing economic opportunities for minority/women/disadvantaged/locally owned business enterprises. The following constitutes the economic opportunity plan requirement, which shall govern the activities of Contractor, Subcontractors, Sub-subcontractors and Suppliers engaged to perform work on the Project. Each Contractor is responsible for ensuring that each Subcontractor, Sub-subcontractor and Supplier who performs work or provides services or materials for the Project complies with each requirement set forth herein.

**II. DEFINITIONS**

As used in this attachment, the following terms shall have the following meanings indicated.

- A. **"Minority"** means a person who is a citizen or lawful permanent resident of the United States and who is Black, Hispanic, Asian-American or Pacific Islander, American Indian or Alaskan native.
- B. **"Minority Business Enterprise"** ("MBE") means a business that is Owned and Controlled (as herein defined) by one or more Minority persons.
- C. **"Women Business Enterprise"** ("WBE") means a business that is Owned and Controlled by one or more women.
- D. **"Disadvantaged Business Enterprise"** ("DBE") means a small business that is owned and controlled by socially and economically disadvantaged individuals in accordance with U.S. Department of Transportation Regulation 49 Code of Federal Regulations.
- E. **"Local Business Enterprise"** ("LBE") means a place of substantial business activity located in the identified community areas. Status as an LBE must be demonstrated to the satisfaction of The Owner.
- F. **"Socially and Economically Disadvantaged Individuals"** means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian American or women regardless of ethnicity, and any other

minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act.

- G. **"Owned"** means a business which is (1) a sole proprietorship legitimately owned by a Minority person or women, (2) a partnership or joint venture in which at least 51 percent of the beneficial ownership interests legitimately are owned by Minority or Women.
- H. **"Controlled"** shall be determined by considering the degree to which Minority group members or women participate in direction and management of the partnership, corporation, joint venture or other entity, including consideration of their participation in the decisions affecting the day-to day management and operations of the business, and of their proportionate interest in the capital, assets and profits of the business.
- I. **"Eligible "MBE," "WBE," or "DBE"** includes any qualified Contractor, Subcontractor, Sub-subcontractor or Supplier providing labor, services, products or materials to the Owner, who has been certified by one of the agencies or programs listed below:
- City of Chicago's Department of Purchases, Contracts and Supplies
  - Chicago Minority Business Development Council (CMBDC)
  - Central Management Services, 2<sup>nd</sup> Step (CMS)
  - Illinois Department of Transportation (IDOT)
  - Women's Business Development Center (WBDC)
  - Small Business Administration 8(a) Program

Other recognized certifications will be considered upon request. The Contractor is responsible for verifying the status of a claimed MBE, WBE or DBE Subcontractor, Sub-subcontractor or Supplier.

- J. **"Certification"** means that one of the agencies or programs listed in Section II(I) above has determined on the basis of information provided to the agency or program by the M/W/DBE firm on its application form and investigation into the representations therein, that a business is a bonafide M/W/DBE.
- K. **"Letter of Certification"** means official correspondence from one of the agencies or programs listed in Section II(I) above which confirms a firm's certification and area of specialization.
- L. **"Contractor"** means any person or entity who has a direct contract with The Owner (in which the parties do not stand in the relationship of an employer and an employee), to provide labor, services, products or materials to the Owner and has

responsibility for the management, implementation, and completion of the entire Project.

- M. "**Subcontractor**" means any person or entity who has a direct or indirect contract with the Contractor or with The Owner to provide labor, services, products or materials for the Project.
- N. "**Sub-subcontractor**" means any person or entity who has a direct or indirect contract with a Subcontractor to provide labor, services, products or materials for the Project.
- O. "**Supplier**" means any person or entity who has a direct contract with a Contractor, Subcontractor, Sub-subcontractor to provide products or materials for the Project.
- P. "**Work**" means the services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.
- Q. "**Project**" means the total construction of which the work performed under the contract documents may be the whole or a part.
- R. "**Joint Venture**" means an association of two or more businesses to carry out a single business enterprise in which they may combine their property, capital efforts, skills, and/or knowledge.

### III. ECONOMIC OPPORTUNITY PLAN REQUIREMENTS

- A. Contractor agrees to establish and implement an innovative, comprehensive economic opportunity plan ("Plan") that incorporates at least the provisions outlined below and is otherwise acceptable to the Owner. The Contractor's Plan must be set forth on the Economic Opportunity Implementation Plan form (Form 100) and submitted along with its bid. Any bid submitted without a completed Form 100 will be incomplete and will not be considered.
- B. Contractor agrees to set forth on Form 100 its expectations of the percentage of eligible M/W/D/LBE firms it expects to use for any work contracted or subcontracted by it and materials or supplies purchased by it. Contractor agrees that it will use its best efforts to achieve the anticipated percentage of M/W/D/LBE participation set forth on the Form 100 submitted along with its bid document. Contractor shall likewise impose these expected percentages on all Subcontractors, Sub-subcontractors and Suppliers hired or retained by Contractor in performance of any portion of the Work for the Owner.

- C. Contractor agrees to provide to the Owner with a Letter of Intent to Perform as a Subcontractor, Supplier and/or Consultant (Form 200) from each M/W/D/LBE firm identified as a Contract participant on the Contractor's Form 100. Forms 100 and 200 should be submitted together along with the Contractor's bid.
- D. Contractor acknowledges that will permit joint ventures between majority and M/W/D/LBE Contractors, Subcontractors, Sub-subcontractors and Suppliers will evaluate each proposed joint venture on a case by case basis upon its merits.
- E. Contractor shall not discriminate against employee or applicants for employment because of race, color, religion, sex, age, sexual orientation, marital status, national origin or ancestry, disability or veteran status. Contractor shall take action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, age, sexual orientation, marital status, national origin or ancestry, disability or veteran status. Such action shall include, but not be limited to, the following: employment, job classification, upgrading, promotion, demotion or transfer, recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for and quality of training, including apprenticeship.
- F. Contractor agrees that, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, it will state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, sexual orientation, marital status, national origin or ancestry, disability or veteran status.
- G. Contractor agrees to demonstrate that he or she has taken positive steps to perform outreach to M/W/D/LBE firms and agrees to request the assistance of appropriate public or private agencies to identify certified, pending and certifiable M/W/D/LBE firms for contracts, subcontracts and purchases.
- H. Contractor agrees to provide such reports and information as may be required by the Illinois Department of Human Rights or to any other administrative or governmental entity involved in the Project.

I.

#### **IV. ADMINISTRATION AND MONITORING**

- A. Contractor's obligation under this Plan is to make good faith efforts to comply with all provisions and to meet all requirements set forth herein or otherwise agreed upon. Contractor agrees that the Plan shall be administered in the following manner:
  - 1. Contractor agrees that these Economic Opportunity Plan Agreement provisions are to be inserted in each contract for any of the Work

subcontracted by the Contractor to others, and that the Contractor will be responsible for enforcing or causing Subcontractors, Sub-subcontractors and Suppliers to enforce such provisions. The Contractor will report such enforcement efforts to the Owner as often as may be required by the Owner.

2. During the contract period, Contractor will maintain and make available to the Owner documentation regarding M/W/D/LBE participation and utilization. To verify that the participation is genuine and legitimate, a careful and comprehensive award, reporting and verification procedure will be used on this Project. Failure to submit any required report in a timely manner will result in withholding of payment to the Contractor.
  3. The Contractor must submit the Contractors' Monthly Report (Form 300) each month as follows:
    - a. The Report must be prepared and submitted to the Facilities Services Office along with the Contractors' monthly pay request. For Projects on which no monthly pay request is submitted, the Contractor's Monthly Report must be submitted to the Facilities Services Office no later than the 15th of each month.
    - b. The Report must reflect the contracting and subcontracting activity through the end of the previous month.
- B. It is mutually understood that, consistent with the obligation to exercise good faith, the Contractor shall be solely responsible for judging the qualifications of the M/W/D/LBE Contractor, Subcontractors, Sub-subcontractors and Suppliers utilized to perform the work.
- C. In determining whether the Contractor has met its stated expectation level of M/W/D/LBE firms used on the Project as set forth on the Contractor's Form 100, the Contractor may only count contract awards and purchases to Eligible M/W/D/LBE firms as follows:
1. To be eligible for credit, a firm must be currently certified by any one of the following agencies or organizations:
    - a. City of Chicago
    - b. Chicago Regional Purchasing Council
    - c. Nationwide affiliates of the National Minority Supplier Development Council (NMSDC)
    - d. State of Illinois Department of Transportation (IDOT)
    - e. Small Business Administration (SBA - 8a Program)
    - f. Womens' Business Development Center (WBDC)

Other recognized certifications will be considered upon request.

2. Credit for Contractors for M/W/D/LBE participation will be given as follows:
  - a. 100% of the dollar value of a contract with an eligible M/W/D/LBE firm will be counted in evaluating the achievement of the Contractor's expectation.
  - b. For contracts involving a joint venture, the Contractor may count toward its M/W/D/LBE expectation the portion of the total dollar value of the contract with the joint venture partner equal to the percentage of the M/W/D/LBE ownership and control of the venture partner.
  - c. Credit for M/W/D/LBE participation will only be given for one category per Subcontractor or Supplier. For example, the dollar value of a contract with a firm owned and controlled by minority women will be counted either toward the expectation as either MBE or WBE participation, but not both.

**EARLY ACCESS FOR WORK AGREEMENT**

THIS EARLY ACCESS FOR WORK AGREEMENT ("Agreement") is made and entered into as of this \_\_\_ day of March, 2006, by and between Mercy Hospital and Medical Center ("Owner") and J.L. Burke Contracting, Inc., an Illinois corporation ("Contractor").

**WITNESSTH:**

WHEREAS, Owner has awarded Contractor the paving work for Owner's parking lot improvement program for Owner's parking lots C, H and G (the "Project") based on Contractor's bids and the documents attached hereto as Exhibit A (the "Contractor's Work") for a total project cost of not more than \$1,266,657.11 ("Project Cost").

WHEREAS, Owner's right to perform the Contractor's Work is subject to the negotiation and complete execution of an AIA form Agreement Between Owner and Contractor for Construction Contract with a contract price not to exceed the Project Cost (the "Contractor Agreement"); and

WHEREAS, Owner and Contractor would like Contractor to have access to Lots C and H (the "Premises"), prior to the execution of the Contractor Agreement, for purposes of commencing the foregoing described Contractor's Work on the Premises; and

WHEREAS, the parties have agreed for Contractor to have such access prior to the execution of the Contractor Agreement, subject to receipt of all necessary and appropriate government approvals and permits and subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements set forth in this Agreement and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The foregoing recitals are hereby acknowledged by reference.
2. Commencing on the date of this Agreement and upon delivery of the certificate(s) of insurance as provided below, Contractor and its agents shall have the right to enter onto the Premises for purposes of performing Contractor's Work. Prior to any such entry, Contractor shall deliver to Owner or Owner's attorney, a certificate or certificates of insurance evidencing the insurance described on Exhibit B attached hereto and incorporated herein by reference.
3. Except to the extent caused by the negligent or intentional acts or omissions of Owner or its agents and for which Owner shall indemnify Contractor, Contractor shall and does hereby indemnify, protect, defend and hold Owner from and against any and all suits, actions, damages, losses, claims, liabilities, costs and expenses, including attorneys' fees, incurred by Owner as a result of the negligent or intentional acts or omissions of Contractor or its agents on the Premises and the performance of Contractor's Work by Contractor or its agents.
4. This Agreement and Contractor's right of access to the Premises provided hereunder may be terminated or suspended at any time in Owner's sole and absolute discretion upon notice to Contractor, whereupon it is hereby agreed that Contractor shall immediately cease Contractor's Work and vacate the Premises. In such event, Owner shall compensate Contractor for Contractor's Work performed to date at the rates set forth in the bid attached as Exhibit A.

5. This Early Access for Work Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original instrument, but all such counterparts together shall constitute one and the same instrument. A facsimile signature shall be deemed an original signature.

6. Upon full execution of the Contractor Agreement, this Agreement shall automatically terminate and the parties' respective rights and obligations with regard to the Project shall be governed by the terms of the fully-executed Contractor Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

Owner:

MERCY HOSPITAL AND MEDICAL CENTER

dc By: *Sheila Lopez*  
Its: President/CEO

Contractor:

J.L. Burke Contracting, Inc

By: *J. Burke*  
Its: President

**EXHIBIT A**

**CONTRACTOR'S BID AND RELATED DOCUMENTS**

EXHIBIT BINSURANCE REQUIREMENTS

**Workers' Compensation Insurance:** The Contractor shall procure and maintain during the life of the Contract workers compensation insurance with limits of not less than \$1,000,000 each accident/injury, \$1,000,000 each employee/disease, and \$1,000,000 disease/policy limit as required by applicable State Law for all employees to be engaged in work at the site of the Project and, in case of any such work sublet, the Contractor shall require the Subcontractors similarly to provide workers' compensation insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the Contractor's workers' compensation insurance policy. In addition to the above, the Contractor shall include a minimum limit of \$1,000,000 of employer's liability under its workers' compensation; and shall also require this of Subcontractors.

**Comprehensive General Liability and Property Damage Insurance:** The Contractor shall procure and maintain comprehensive general liability and property damage insurance. The comprehensive general liability policy shall provide products and completed operations coverage, and contractual liability covering this specific contract. If the policy is written on a general aggregate form, the general aggregate limit shall apply separately to this project. The limits shall be not less than:

**Bodily Injury, including death resulting therefrom:**  
\$5,000,000 each occurrence.  
\$5,000,000 aggregate.

**Property damage:**  
\$5,000,000 each occurrence.  
\$5,000,000 aggregate.

**Owner's and Contractor's Protective Liability Insurance:** The Contractor shall procure and maintain Owner's and Contractor's protective liability insurance naming the Owner and Engineer as additional insurers. The limits shall be not less than the limits specified for comprehensive general liability and property damage insurance.

**Automobile insurance:** The Contractor shall procure and maintain comprehensive automobile liability insurance covering the use of all owned, non-owned, or hired automobiles. The limits shall be not less than:

- .1 Bodily injury, including death resulting therefrom:  
\$1,000,000 each occurrence.  
\$1,000,000 aggregate.
- .2 Property damage:  
\$1,000,000 each occurrence.

**Subcontractor's comprehensive general liability, property damage and automobile liability insurance:** The Contractor shall either (1) require each Subcontractor to procure and to maintain during the life of the subcontract, Subcontractor's comprehensive general liability, property damage and automobile liability insurance of the type and in the same amounts as specified in the preceding paragraphs or (2) insure the activities of Subcontractors in own its policy.

**EJCDC  
SUGGESTED FORM OF AGREEMENT  
BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION  
CONTRACT (COST-PLUS)**

THIS AGREEMENT is by and between Mercy Hospital & Medical Center (Owner)  
and Berglund Construction Company (Contractor).

Owner and Contractor, in consideration of the mutual covenants set forth herein, agree as follows:

**ARTICLE 1 - WORK**

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Repair and maintenance work on the exterior walls of the building known as Mercy Hospital & Medical Center Main Hospital Building, 2525 South Michigan Avenue, Chicago, Illinois.

**ARTICLE 2 - THE PROJECT**

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

EXTERIOR RESTORATION WORK  
at  
MAIN HOSPITAL BUILDING  
2525 SOUTH MICHIGAN AVENUE  
CHICAGO, ILLINOIS

**ARTICLE 3 - ENGINEER**

3.01 The Project has been designed by Eskenazi, Farrell & Fodor, P.C.  
125 South Clark Street, Suite 1822  
Chicago, Illinois 60603

(Engineer), who is to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

## ARTICLE 4 - CONTRACT TIMES

### 4.01 Time of the Essence

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

### 4.02 Dates for Substantial Completion and Final Payment

A. The Work will be substantially completed on or before December 27, 2006, and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions on or before January 26, 2007.

### 4.03 Liquidated Damages

A. Contractor and Owner recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner \$ N/A for each day that expires after the time specified in Paragraph 4.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner \$ N/A for each day that expires after the time specified in Paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

## ARTICLE 5 - CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A below:

A. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

## ARTICLE 6 - COST OF THE WORK

6.01 Cost of the Work shall be determined as provided in Paragraph 11.01 of the General Conditions.

## ARTICLE 7 - CONTRACTOR'S FEE

7.01 Contractor's fee shall be determined as follows:

A. A fee based on the following percentages of the various portions of the Cost of the Work:

1. Payroll costs (see Paragraph 11.01.A.1 of General Conditions) 7½% + 1%.
2. Material and equipment costs (see Paragraph 11.01.A.2 of General Conditions) 7½% + 1%.
3. Amounts paid to subcontractors (see Paragraph 11.01.A.3 of General Conditions) 7½% + 1%.
4. Amounts paid to special consultants (see Paragraph 11.01.A.4 of General Conditions) 7½% + 1%.
5. Supplemental costs (see Paragraph 11.01.A.5 of General Conditions) 7½% + 1%.
6. No fee will be payable on the basis of costs itemized in Paragraph 11.01.B of the General Conditions.

7. The provisions in Paragraph 11.01.C of the General Conditions will apply only to changes in the Work.

B. Contractor guarantees that the maximum amount payable by Owner in accordance with Paragraph 7.01.A as a percentage fee will not exceed \$181,610.00 subject to increases or decreases for changes in the Work as provided in Paragraph 9.01.B below.

#### ARTICLE 8 - GUARANTEED MAXIMUM PRICE

8.01 Contractor guarantees that the maximum amount payable (Guaranteed Maximum Price) by Owner for the sum of the Cost of the Work, plus Contractor's fee under Article 7 will not exceed \$ 2,318,202.00, subject to increases or decreases for changes in the Work. The Guaranteed Maximum Price will not apply to Unit Price Work.

#### ARTICLE 9 - CHANGES IN THE CONTRACT PRICE

9.01 The amount of any increases or decreases in Contractor's fee, in any Guaranteed Maximum Price, or in any guaranteed maximum fee which results from a Change Order shall be set forth in the applicable Change Order subject to the following:

A. If Contractor's fee is a percentage fee not subject to any guaranteed maximum limitation, Contractor's fee will adjust automatically as the Cost of the Work changes.

B. Wherever there is a Guaranteed Maximum Price or Fee:

1. In the case of net additions in the Work, the amounts of any increase in either guaranteed maximum shall be determined in accordance with Paragraphs 11.01 through 11.02, inclusive, of the General Conditions.

2. In the case of net deletions in the Work, the amount of any such decrease shall be determined in accordance with Paragraph 11.02.C of the General Conditions, and any Guaranteed Maximum (Price or Fee) shall be reduced by mutual agreement.

#### ARTICLE 10 - PAYMENT PROCEDURES

##### 10.01 Submittal and Processing of Payments

A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will indicate the amount of Contractor's fee then payable. Applications for Payment will be processed by Engineer as provided in the General Conditions.

##### 10.02 Progress Payments; Retainage

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as recommended by Engineer on or about the first day of each month during construction as provided in Paragraphs 10.02.A.1 and 10.02.A.2 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

1. For Cost of Work: Progress payments on account of the Cost of the Work will be made:

a. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions:

(1) 90 percent Cost of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, Owner, on recommendation of Engineer, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no retainage; and

(2) 90 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

b. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 90 percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the General Conditions and less 100 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

2. For Contractor's fee: Progress payments on account of the Contractor's fee will be made:

a. If Contractor's fee is a fixed fee, payments prior to Substantial Completion will be in an amount equal to 90 percent of such fee earned to the date of the approved Application for Payment (less in each case payments previously made on account of such fee) based on the progress of the Work measured by the schedule of values established as provided in Paragraph 2.07.B of the General Conditions (and in the case of Unit Price Work on the number of units completed), and upon Substantial Completion in an amount sufficient to increase total payments to Contractor on account of his fee to 90 percent of Contractor's fee. In the event there is no schedule of values the progress of the Work will be measured as provided in the General Requirements.

b. If Contractor's fee is a percentage fee, payments prior to Substantial Completion will be in an amount equal to 90 percent of such fee (less in each case payments previously made on account of such fee) based on the Cost of the Work completed, and upon Substantial Completion in an amount sufficient to increase total payments to Contractor on account of that fee to 90 percent of Contractor's fee.

### 10.03 Final Payment

A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07.

## ARTICLE 11 - INTEREST

11.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of \_\_\_\_\_ percent per annum.

## ARTICLE 12 -- CONTRACTOR'S REPRESENTATIONS

12.01 In order to induce Owner to enter into this Agreement Contractor makes the following representations:

A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 4.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions as provided in Paragraph 4.06 of the General Conditions.

E. Contractor has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by Contractor, and safety precautions and programs incident thereto.

F. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

#### **ARTICLE 13 - ACCOUNTING RECORDS**

13.01 Contractor shall check all materials, equipment, and labor entering into the Work and shall keep such full and detailed accounts as may be necessary for proper financial management under this Agreement, and the accounting methods shall be satisfactory to Owner. Owner shall be afforded access to all Contractor's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Contractor shall preserve all such documents for a period of three years after the final payment by Owner.

#### **ARTICLE 14 - CONTRACT DOCUMENTS**

14.01. Contents

A. The Contract Documents consist of the following:

1. Notice of Award (pages 1 to 1, inclusive).
2. This Agreement (pages 1 to 8, inclusive).
3. Performance bond (pages 1 to 2, inclusive).
4. Payment bond (pages 1 to 2, inclusive).
5. Other bonds (pages \_\_\_\_\_ to \_\_\_\_\_, inclusive).
6. General Conditions (pages 1 to 41, inclusive).
7. Supplementary Conditions (pages 1 to 2, inclusive).

*No Supplementary Genl. Conditions  
No Risk?*

8. Specifications as listed in the table of contents of the Project Manual.

9. Drawings consisting of a cover sheet and 6 sheets with each sheet bearing the following general title:  
EXTERIOR RESTORATION WORK Mercy Hospital & Medical Center Main Hospital Building  
2525 South Michigan Avenue Chicago, Illinois.

10. Addenda (numbers 1 to 1, inclusive).

11. Notice to Proceed (pages 1 to 1, inclusive).

12. Exhibits to this Agreement (enumerated as follows):

- a. Contractor's Bid (pages 1 to 14, inclusive).
- b. Documentation submitted by Contractor prior to Notice of Award (pages 1 to 3, inclusive).

Contractor's Letter dated June 16, 2005 (pages 1 to 1 inclusive).

Billing Rates for Labor and Equipment (pages 1 to 2 inclusive).

13. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:

- a. Work Change Directives.
- b. Change Order(s).

B. The documents listed in Paragraph 14.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 14.

D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 15 - MISCELLANEOUS

#### 15.01 Terms

A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

#### 15.02 Assignment of Contract

A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

#### 15.03 Successors and Assigns

A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

#### 15.04 Severability

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

#### 15.05 Other Provisions

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement in duplicate. One counterpart each has been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or identified by Owner and Contractor or on their behalf.

This Agreement will be effective on August 1, 2005 (which is the Effective Date of the Agreement).

OWNER:

Mercy Hospital & Medical Center

By: *Sheila Lynn*

Title: President/CEO

Address for giving notices:

2525 South Michigan Avenue

Chicago, Illinois 60616-2477

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Owner-Contractor Agreement.)

CONTRACTOR:

Berglund Construction Company

By: *[Signature]*

Title: EXECUTIVE VICE PRESIDENT

Address for giving notices:

SOUTH CHICAGO  
8410 South Michigan Avenue

Chicago, Illinois 60617-1943

License No.: \_\_\_\_\_  
(Where applicable)

Agent for service of process: \_\_\_\_\_

(If Contractor is a corporation or a partnership, attach evidence of authority to sign)

# Notice of Award

Dated July 15, 2005

Project: Main Hospital Building, 2525 South Michigan Avenue, Chicago, Illinois	Owner: Mercy Hospital & Medical Center	Owner's Contract No.: 0554
Contact: Exterior Restoration		Engineer's Project No.: 0554
Bidder: Berglund Construction Company		
Bidder's Address: (send Certified Mail, Return Receipt Requested)		
8410 South Chicago Avenue, Chicago, Illinois 60617-1943		

You are notified that your Bid dated June 8, 2005 for the above Contract has been considered. You are the Successful Bidder and are awarded a Contract for repair and maintenance work on the exterior walls and enclosures of the 13-story building known as Mercy Hospital & Medical Center Main Hospital Building, 2525 South Michigan Avenue, Chicago, Illinois according to the Contract Documents.

The Contract Price of your Contract is Two Million, Three Hundred Eighteen Thousand Two-Hundred Two Dollars and 00/100 Dollars (\$ 2,318,202.00), based on estimated quantities and unit prices provided on the Bid Form and CONTRACTOR'S Documentation.

Three (3) copies of each of the proposed Contract Documents (except Drawings) accompany this Notice of Award.

six (6) sets of the Drawings will be delivered separately or otherwise made available to you immediately.

You must comply with the following conditions precedent within [15] days of the date you receive this Notice of Award.

1. Deliver to the Owner [ 2 ] fully executed counterparts of the Contract Documents.
2. Deliver with the executed Contract Documents the Contract security [Bonds] as specified in the Instructions to Bidders (Article 20), [and] General Conditions (Paragraph 5.01) [and Supplementary Conditions (Paragraph SC-5.01).]
3. Other conditions precedent:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award and declare your Bid security forfeited.

Within ten days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Contract Documents.

Mercy Hospital & Medical Center  
Owner  
By: \_\_\_\_\_  
Authorized Signature  
\_\_\_\_\_  
Title

Copy to Engineer

## **RIDER TO AGREEMENT BETWEEN OWNER AND CONTRACTOR**

This Rider is attached to and made a part of that EJCDC Suggested Form of Agreement Between Owner and Contractor For Construction Contract (Cost-Plus) between Mercy Hospital and Medical Center ("Owner") and Berglund Construction Company ("Contractor") dated effective August 1, 2005-(EJCDC Doc. C-525, 2002), and the Standard General Conditions of the Construction Contract (EJCDC Doc. C-700, 2002), all of which are incorporated herein by reference. To the extent that the terms and provisions of this Rider conflict with the terms and provisions of said Agreement, the terms of this Rider shall control.

### **R1 CHANGES TO FORM AGREEMENT (Doc. C-525)**

- 4.03 Delete paragraph 4.03.
- 5.01 Delete subparagraph 5.01A. Replace with "See paragraph 8.01."
- 7.01 Delete the existing subparagraph 7.01B and replace with the following:  
"Contractor guarantees the maximum amount payable by Owner in accordance with Paragraph 7.01.A will not exceed 8 ½ % of the Cost of the Work."
- 8.01 Insert the following sentence at the beginning of the paragraph: The Contract Price shall equal the Cost of the Work plus Contractor's fee under Article 7.  
  
Change dollar amount to \$2,225,319. Delete the last sentence of 8.01.  
  
Add the following sentence: The final Guaranteed Maximum Price will correspond to the actual quantities of Work performed extended by the Unit Prices and applicable Lump Sum Prices contained in the Bid Form.
- 8.02 Add the following as new paragraph 8.02: "The Guaranteed Maximum Price is subject to adjustment for (i) approved Change Orders as described in paragraph 5.3, and (ii) approved change orders, authorized in accordance with the requirements of the Contract Documents. The difference, as of the date of final completion, between (i) the total aggregate sum of the Cost of the Work plus the Contractor's Fee and (ii) the Guaranteed Maximum Price upon final completion of the Work (such difference equals the "Savings") shall be shared by the Owner and the Contractor as follows: Eighty Percent (80 %) of the Savings shall inure to the benefit of the Owner, and the remainder shall be paid to the Contractor as an additional fee; provided, however, that the Contractor shall not be entitled to receive any Savings until the date of final payment. Moreover, Contractor shall not be entitled to any portion of Savings if the Owner terminates this Agreement for cause or if the Contractor terminates this Agreement for any reason prior to Substantial Completion."
- 8.03 Add the following as a new paragraph 8.03: "Contractor shall submit to Engineer on a weekly basis a report showing the actual quantities of Work performed in the

prior week and cumulative totals to date. In addition, at 25%, 50%, and 75% of completion of the Work (as determined by Engineer), Contractor shall submit to Engineer reports detailing the cumulative Cost of the Work plus Contractor's fee incurred to date in order to permit Owner to assess where the actual cost of the Project is in relation to the budget. If at any time the cumulative total of the Cost of the Work plus Contractor's fee incurred is equal or greater to \$2,447,851 (being 10% over the original estimated Guaranteed Maximum Price), at Owner's request, Contractor, Engineer and Owner shall meet and confer in good faith to determine if a mutually acceptable plan for completion of the Work can be agreed upon and, if not, Owner shall have the option of terminating the Contract for convenience pursuant to Section 15.03.

9.01 Delete subparagraph 9.01A.

10.02 In subparagraph 10.02(A)(1)(a)(1), beginning in the first line, delete everything after the words "(with the balance being retainage)," and replace with "Notwithstanding this provision, however, Owner may, in its sole discretion, following proper completion of 50% of Cost of Work Completed, (i) cease withholding retention on remaining payments to Contractor, or (2) reduce or release retention for any Subcontractor whose Work is One Hundred Percent (100%) Completed, accepted and approved, upon receipt of all required payment and warranty documents in accordance with the Agreement, or (3) both. Nothing herein shall be construed to require such reduction or release."

11.01 After "at the rate of," insert "Ten (10%)" before "percent per annum."

12.01 In subparagraph 12.01(J), change "generally sufficient" to "sufficient"

13.01 In the last line of paragraph 13.01, change "three years" to "four years"

Insert new paragraphs as follows:

"13.02 Owner or Owner's auditors or accountants, at Owner's discretion, may review, copy and report in writing on the Contractor's accounting records accounting within 30 days after delivery of the final pay request to the Engineer by the Contractor. Based upon such Cost of the Work as the Owner or its auditors or accountants report to be substantiated by the Contractor's records, and provided that the other conditions of this Agreement have been met, the Engineer will, within seven days after receipt of the written report of Owner or its auditors or accountants, either issue to the Owner a certificate for final payment with a copy to the Contractor, or notify the Contractor and Owner in writing of the Engineer's reasons for withholding any amounts as provided in this Agreement.

13.03 If the Owner or Owner's accountants or auditors report the Cost of the Work as substantiated by the Contractor's records to be less than claimed by Contractor, the Contractor shall pay the Owner, or Owner may deduct from

remaining amounts otherwise due Contractor, an amount equal to one hundred five percent (105%) of such difference, as reimbursement for said overcharge and the administrative and audit expenses associated with its discovery. The payment of one hundred five percent (105%) of such difference, however, shall not be owed for the portion of any charge that is the subject of a good-faith dispute.

13.04 If the Owner or Owner's accountants or auditors report the Cost of the Work as substantiated by the Contractor's records to be less than claimed by Contractor, the Contractor shall have 30 days from receipt of the report to contest such report in writing, delivered to Owner and Engineer. If Contractor contests such report in writing within 30 days of receipt, Owner shall nevertheless pay Contractor all undisputed sums. Failure to contest the report in writing within 30 days from receipt, however, shall result in the amounts substantiated in the report to be binding on the Contractor and Owner shall make final payment based upon the findings of the report."

14.01 In paragraph 14.01A, after "the following" and before the semicolon, insert "which, in addition to this Rider, each of which are contained in the Project Manual dated July 15, 2005 and incorporated herein by reference:"

In subparagraph 14.01(A)(6), after "General Conditions" and before parentheses, insert "(EJCDC Standard General Conditions of the Construction Contract, Doc. No. C-700, 2002)"

In subparagraph 14.01(A)(7), after "Supplementary Conditions" and before parentheses, insert "(Project Manual, 00800-1 and 00800-2)"

In subparagraph 14.01(A)(9), after "Drawings" and before "consisting," insert "EW-0, EW-1, EW-2, EW-3, EW-4, EW-5 and EW-6, all issued April 29, 2005"

In subparagraph 14.01(A)(10), Change "Addenda" to "Addendum Number 1, dated May 18, 2005"

## R2 CHANGES TO GENERAL CONDITIONS (Doc. C-700)

1.01 In subparagraph 1.01(2), after the word "Agreement –" delete the sentence and replace with "The EJCDC Suggested Form of Agreement Between Owner and Contractor For Construction Contract (Cost-Plus), Doc. No. C-525 between Mercy Hospital & Medical Center as Owner and Berglund Construction Company as Contractor, dated effective August 1, 2005."

In subparagraph 1.01(3) Change "The form acceptable to Engineer" to "The form acceptable to Owner and Engineer . . ."

In subparagraph 1.01(27), after “Notice of Award” and before “The written notice . . .” insert “As identified in the Agreement”

In subparagraph 1.01(28), after “Notice to Proceed” and before “A written notice . . .” insert “As identified in the Agreement”

In subparagraph 1.01(29), after “Owner –“ delete the sentence and replace with “Mercy Hospital and Medical Center”

In subparagraph 1.01(34), after “Project Manual” and before “The bound documentary” insert “As identified in the Agreement”

4.04 Delete entire paragraph and subparagraphs.

5.04 In subparagraph 5.04(B)(1), add to end of subparagraph after “claims covered thereby” the following “with noncontributory coverage and a separation of insureds.”

In subparagraph 5.04(B)(2), in the third line, after “the Supplementary Conditions” and before “or required by Laws” insert “, the Certificate of Liability Insurance dated July 21, 2005 provided to Owner by Thilman Filippini, LLC on Contractor’s behalf,”

5.06 Delete subparagraphs 5.06(B) and 5.06(C).

5.07 Add to end of subparagraph 5.07(A), the following: “All such waivers, however, are applicable only to the extent of actual coverage and payment by insurers for covered claims.”

Add at the beginning of subparagraph 5.07(B): “Only to the extent actually covered by Owner’s insurance.”

5.08 Delete subparagraph 5.08(B).

5.09 Delete paragraph 5.09 including its subparagraph A.

5.10 Delete paragraph 5.10 including its subparagraph A.

8.02 In paragraph 8.02(A), delete the phrase “to whom Contractor makes no reasonable objection,”

8.04 Add to end of paragraph 8.04(A) “conditioned upon Contractor’s compliance with all of the requirements of the balance of Article 14.”

10.03

In subparagraph 10.03(A)(1),

after “(i) ordered” and before “by Owner”, insert “in writing”

after “(iii) agreed to by the parties” add “in writing in advance of the changed Work”

In subparagraph 10.03(A)(2), in the second line, after “which are agreed to by the parties” and before “including any” insert “in writing in advance of the changed Work”

Insert new subparagraph 10.03(A)(4) as follows: Add new paragraph: “Execution of a Change Order shall be considered an accord and satisfaction for the Work identified in the Change Order, including but not limited to all labor, materials, time and related time or expense impacts of such Work. Under no circumstances will Contractor be entitled to claim additional cumulative or other impacts as a result of such Change Order after it has been executed.”

11.01

In subparagraph 11.01(A)(4), add to the end of the sentence “and required by the Contract Documents.”

In subparagraph 11.01(A)(5)(a), add to the end of the sentence “but only to the extent actually paid to such employees”

In subparagraph 11.01(A)(5)(c), add to end of the subparagraph, “Upon written request by Owner, Contractor shall furnish the Owner with any information and documentation necessary to verify the period of time for which such items were used in connection with the Work. Rental charges shall in no event exceed those generally prevailing in the location of the Project nor shall the Contractor be entitled reimbursement for any cumulative total of rental charges in connection with any single piece of machinery or equipment in excess of sixty percent (60%) of its fair market value as of the date that such machinery or equipment is first put into service in connection with the Work.”

In subparagraph 11.01(A)(5)(d), add to end of sentence “Owner, however, is exempt from sales tax. No sales tax may be included in the Cost of the Work.”

In subparagraph 11.01(A)(5)(e), in the first line, after the word “negligence” add “, recklessness, carelessness or intentional acts”

In subparagraph 11.01(A)(5)(f), in the first line at the top of page 31, after the word “negligence” add “, recklessness, carelessness or intentional acts”

In subparagraph 11.01(B)(1), add to end of subparagraph “Nor shall merit bonuses or discretionary compensation be included in Cost of the Work.”

In subparagraph 11.01(B)(4), in the first line, after the word “negligence” add “, recklessness, carelessness or intentional acts”

In subparagraph 11.01(D), add to the end of the paragraph “Such breakdown and supporting data shall be subject to review and audit in accordance with Article 13 of the Agreement.”

11.03 Add the following to the end of subparagraph 11.03(B): “Contractor shall be paid for actual quantities of Work performed, subject to the Guaranteed Maximum Price set forth in Section 8.01 of the Agreement.

12.03 In subparagraph 12.03(A), in the fifth line, change “due to such delay” to “due solely to such delay”

Delete the text of subparagraph 12.03(B) and replace with the following:  
“Contractor waives and shall not make any Claim for consequential damages arising out of the Work. Contractor understands and agrees that extensions of contract time provided herein shall be Contractor's sole and exclusive remedy for delays. Contractor shall not claim and shall not be entitled to direct or consequential damages for delays, accelerations, impacts or other time-related costs or expenses, including but not limited to claims for extended home office overhead expense, loss of productivity, loss of bond capacity or any other time related claim, except for the cost of equipment left on the Project site at the request of Owner.”

14.02 In subparagraph 14.02(A)(1), change “and accompanied by such supporting documentation as is required by the Contract Documents” to “and accompanied by payment application forms, affidavits, waivers of lien to date for Contractor and all Subcontractors covered by the Application and such other documents required by Owner or Engineer.

Add new subparagraph 14.02(A)(4) as follows: “The submission of proper and complete Applications for Payments as described herein are an express condition precedent to Owner’s obligation to pay.”

In subparagraph 14.02(C), before the beginning of the paragraph, insert “Conditioned upon Contractor’s submission of proper and complete Applications for Payments as described in subparagraphs 14.02(A)(1 - 4),”

15.03 Delete subparagraph 15.03(A)(3)

Add the words “and unavoidable” after the word “reasonable in 15.03(A)(4).

16.01 Add the following sentence to subparagraph 16.01(A0: "The parties may reach agreement on an arbitration service in lieu of the American Arbitration Association."

In subparagraph 16.01(C), in the first line after "by mediation" insert before the comma, "within 60 days of either party's initiation of mediation proceedings"

In subparagraph 16.01(C)(3), add to end of subparagraph "Any such claims shall be brought exclusively in the Circuit Court of Cook County, Illinois."

ACCEPTED AND AGREED:

**OWNER:**

Mercy Hospital and Medical Center

By: *Sister Sheila Lyne*

Name: *Sister Sheila Lyne*

Title: *President/CEO*

**CONTRACTOR:**

Berglund Construction Company

By: *Jack Trubbia*

Name: *Jack Trubbia*

Title: *Executive Vice President*

#1563665 v. 1

# EXTERIOR RESTORATION WORK

FOR

## MERCY HOSPITAL & MEDICAL CENTER

AT

### MAIN HOSPITAL BUILDING

### 2525 SOUTH MICHIGAN AVENUE

### CHICAGO, ILLINOIS

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# SPECIFICATIONS

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Prepared by:



ESKENAZI, FARRELL & FODOR, P.C.  
Engineers  
125 South Clark Street  
Chicago, Illinois 60603

(312) 939-1664

April 29, 2005

**00005**  
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END OF SECTION

## **EXHIBIT G**

### **PERMITTED LIENS**

**1. Liens or encumbrances against the Property:**

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

**2. Liens or encumbrances against the Developer or the Project, other than liens against the Property, if any:**

## EXHIBIT H

### PROJECT BUDGET

#### PHASE I

Emergency System	\$ 817,781 (1)
Exterior (including Exterior Facade Restoration Work )	\$ 7,687,162 (1)
Fire Safety System	\$ 5,605,145 (1)
HVAC	\$ 7,717,987 (1)
Interior Systems	\$ 1,357,894 (1)
Rehabilitation of Patient Care Labs	\$ 20,440,947 (1)
Reconfiguration of Bldg & Site Prep	\$ 4,973,729 (1)
H Lot Acquisition & Remediation	\$ 7,585,265 (1)
<u>Clinical Equipment</u>	<u>\$ 36,102,395 (1)</u>
<b>Phase I Total Project Costs</b>	<b>\$ 92,288,396 (1)</b>

#### PHASE II

Capital Expenditures over remaining life of TIF	<u>\$170,863,242 (1)</u>
<b>Phase II Total Project Costs</b>	<b>\$170,863,242 (1)</b>

**TOTAL USE OF FUNDS** **\$263,151,638 (1)**

(1) Final numbers subject to adjustment based on the scope of the completed Project as set forth in Section 3.01.

**EXHIBIT H-2**

**MBE/WBE BUDGET**

**Phase I**

Site Preparation, Hard Costs of Construction \$24,593,000 (1)

**Phase II**

Site Preparation, Hard Costs of Construction \$42,716,000(1)

(1) Final MBE/WBE Budget numbers will be based upon aggregate hard construction costs as incurred by the developer excluding land acquisition, relocation, equipment, and all indirect non-construction-related soft costs. Final numbers are subject to adjustment based on the scope of the completed Project as such term is defined in and as set forth in Section 3.01. To the extent that the hard construction costs set forth in this exhibit are greater than or less than the amounts actually expended by the Developer, then this MBE/WBE Budget shall be adjusted accordingly.

**EXHIBIT I**

**APPROVED PRIOR EXPENDITURES**

***NOT ATTACHED FOR CLOSING, BUT WILL BE DETERMINED IN THE SOLE DISCRETION OF DPD AFTER CLOSING DATE.***

**EXHIBIT K**  
**PRELIMINARY TIF PROJECTION**

*[See Attached]*

**Exhibit K: Estimate of Preliminary TIF Projects-Real Estate Taxes  
26th & King Drive RPA**

TIF Year [1]	Year Assessed [2]	Triennial Reassessment [3] 6%	Base Value Proj. Site Only [4]	Rental RAV Additions [5]	For Sale RAV Additions [6]	Total RAV [7]	Total Taxable RAV (1/1) [8]	Incremental Value Above Base [9]	Tax Rate [10]	Revenue Collected (By 12/31) 97% [11]	Revenue Net of 5% Admin. Fee 98% [12]
0	2003	12.49%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	6.4330%	\$ -	\$ -
0	2004	0.00%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	6.2800%	\$ -	\$ -
0	2005	0.00%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	6.2434%	\$ -	\$ -
0	2006	12.49%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	5.8893%	\$ -	\$ -
1	2007	0.00%	\$ -	\$ 446,223	\$ 7,051,277	\$ 7,497,500	\$ 7,497,500	\$ 7,497,500	6.0071%	\$ -	\$ -
2	2008	0.00%	\$ -	\$ 1,838,438	\$ 13,779,895	\$ 15,618,332	\$ 15,618,332	\$ 15,618,332	6.1272%	\$ 436,871	\$ 415,027
3	2009	12.49%	\$ -	\$ 2,067,992	\$ 22,371,054	\$ 24,439,046	\$ 24,439,046	\$ 24,439,046	5.8035%	\$ 928,257	\$ 881,845
4	2010	0.00%	\$ -	\$ 2,067,992	\$ 24,304,007	\$ 26,371,999	\$ 26,371,999	\$ 26,371,999	5.9196%	\$ 1,375,770	\$ 1,306,982
5	2011	0.00%	\$ -	\$ 2,067,992	\$ 36,198,586	\$ 38,266,578	\$ 38,266,578	\$ 38,266,578	6.0380%	\$ 1,514,283	\$ 1,438,569
6	2012	12.49%	\$ -	\$ 2,326,210	\$ 40,718,486	\$ 43,044,696	\$ 43,044,696	\$ 43,044,696	5.7190%	\$ 2,241,220	\$ 2,129,159
7	2013	0.00%	\$ -	\$ 2,326,210	\$ 40,718,486	\$ 43,044,696	\$ 43,044,696	\$ 43,044,696	5.8334%	\$ 2,387,874	\$ 2,268,481
8	2014	0.00%	\$ -	\$ 2,326,210	\$ 40,718,486	\$ 43,044,696	\$ 43,044,696	\$ 43,044,696	5.9501%	\$ 2,435,640	\$ 2,313,858
9	2015	12.49%	\$ -	\$ 2,616,670	\$ 45,802,759	\$ 48,419,429	\$ 48,419,429	\$ 48,419,429	5.6358%	\$ 2,484,366	\$ 2,360,148
10	2016	0.00%	\$ -	\$ 2,616,670	\$ 45,802,759	\$ 48,419,429	\$ 48,419,429	\$ 48,419,429	5.7485%	\$ 2,646,958	\$ 2,514,610
11	2017	0.00%	\$ -	\$ 2,616,670	\$ 45,802,759	\$ 48,419,429	\$ 48,419,429	\$ 48,419,429	5.8635%	\$ 2,699,889	\$ 2,564,895
12	2018	12.49%	\$ -	\$ 2,943,398	\$ 51,521,875	\$ 54,465,273	\$ 54,465,273	\$ 54,465,273	5.5537%	\$ 2,753,901	\$ 2,616,206
13	2019	0.00%	\$ -	\$ 2,943,398	\$ 51,521,875	\$ 54,465,273	\$ 54,465,273	\$ 54,465,273	5.6648%	\$ 2,934,093	\$ 2,787,388
14	2020	0.00%	\$ -	\$ 2,943,398	\$ 51,521,875	\$ 54,465,273	\$ 54,465,273	\$ 54,465,273	5.7781%	\$ 2,992,788	\$ 2,843,149
15	2021	12.49%	\$ -	\$ 3,310,922	\$ 57,955,102	\$ 61,266,024	\$ 61,266,024	\$ 61,266,024	5.4729%	\$ 3,052,646	\$ 2,900,014
16	2022	0.00%	\$ -	\$ 3,310,922	\$ 57,955,102	\$ 61,266,024	\$ 61,266,024	\$ 61,266,024	5.5824%	\$ 3,232,437	\$ 3,089,816
17	2023	0.00%	\$ -	\$ 3,310,922	\$ 57,955,102	\$ 61,266,024	\$ 61,266,024	\$ 61,266,024	5.6940%	\$ 3,317,511	\$ 3,151,636
18	2024	12.49%	\$ -	\$ 3,724,337	\$ 65,191,608	\$ 68,915,945	\$ 68,915,945	\$ 68,915,945	5.3932%	\$ 3,383,833	\$ 3,214,641
19	2025	0.00%	\$ -	\$ 3,724,337	\$ 65,191,608	\$ 68,915,945	\$ 68,915,945	\$ 68,915,945	5.5011%	\$ 3,605,272	\$ 3,425,008
20	2026	0.00%	\$ -	\$ 3,724,337	\$ 65,191,608	\$ 68,915,945	\$ 68,915,945	\$ 68,915,945	5.6111%	\$ 3,677,401	\$ 3,493,531
21	2027	12.49%	\$ -	\$ 4,189,373	\$ 73,331,693	\$ 77,521,066	\$ 77,521,066	\$ 77,521,066	5.3147%	\$ 3,750,934	\$ 3,563,388
22	2028	0.00%	\$ -	\$ 4,189,373	\$ 73,331,693	\$ 77,521,066	\$ 77,521,066	\$ 77,521,066	5.4210%	\$ 3,996,412	\$ 3,796,591
23	2029	0.00%	\$ -	\$ 4,189,373	\$ 73,331,693	\$ 77,521,066	\$ 77,521,066	\$ 77,521,066	5.5294%	\$ 4,076,346	\$ 3,872,527
<b>Collection for Year 23</b>										\$ 4,157,856	\$ 3,949,963
<b>Source: J. B. Friedman &amp; Company</b>										<b>Total Increment-2006-2028</b>	
										\$ 64,102,458	\$ 60,897,431

\* Provided by Mercy Campus Developers LLC

[1] It is assumed that the TIF will be established in 2006

[2] Properties in the City of Chicago are reassessed every third year beginning 2003.

[3] 2.5% annual inflation is assumed to be applied triennially.

[4] Base EAV of site after exemptions and adjusted for inflation - (site is exempt)

[5] New EAV resulting from sensor rental units. (It is assumed that this building will be a mixed-income rental building with a portion of the units being market rate and another portion being affordable)

[6] New EAV resulting from for sale units.

[7] Additions resulting from new taxable development.

[8] Total EAV after all exemptions

[9] Taxable EAV less Base EAV of site

[10] Deolding Tax Rate Based on Tax Limitation Law

[11] Tax revenues are collected one year after the taxing year at a 97% collection rate

[12] TIF increment available after the City's 5% administration fee

Note: These projections are based on estimates, assumptions, and other information developed from research of the market, knowledge of the industry, and meetings during which we obtained certain information. Some assumptions inevitably will not materialize, and unanticipated events and circumstances may occur; therefore, actual results achieved during the period covered by our analysis will necessarily vary from those shown here and the variances may be material.

**EXHIBIT N**

**PUBLIC BENEFITS PROGRAM**

***DEVELOPER SHALL SUBMIT A PUBLIC BENEFITS PROGRAM EXHIBIT WITHIN 30 DAYS OF THE DATE HEREOF.***

EXHIBIT P  
FORM OF PAYMENT BOND

*[See Attached]*

# PAYMENT BOND

Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

**CONTRACTOR (Name and Address):**

Berglund Construction Company  
8410 South Chicago Avenue, Chicago, IL 60617

**SURETY (Name and Address of Principal Place of Business):**

Travelers Casualty and Surety Company of America  
One Tower Square, Hartford, CT 06183

**OWNER (Name and Address):**

Mercy Hospital & Medical Center  
2525 South Michigan Avenue, Chicago, IL

**CONTRACT**

Date:

Amount: \$2,225,319.00

Description (Name and Location): Repair and maintenance work on the exterior walls of the building known as Mercy Hospital & Medical Center Main Hospital Building  
2525 South Michigan Avenue, Chicago, Illinois

**BOND**

Bond Number: 104600508

Date (Not earlier than Contract Date): August 26, 2005

Amount: Two Million Two Hundred Twenty Five Thousand Three Hundred Nineteen and 00/100 (2,225,319.00)

Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Payment Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

**CONTRACTOR AS PRINCIPAL**

Company: Berglund Construction Company

Signature: [Signature] (Seal)  
Name and Title:

**SURETY**

Travelers Casualty and Surety Company of America  
Surety's Name and Corporate Seal (Seal)

By: [Signature]  
Signature and Title Brenda D. Hockberger, Attorney-in-Fact  
(Attach Power of Attorney)

(Space is provided below for signatures of additional parties, if required.)

Witness: [Signature]  
~~Attest~~ Signature and Title Oscar F. Rincon

**CONTRACTOR AS PRINCIPAL**

Company:

Signature: \_\_\_\_\_ (Seal)  
Name and Title:

**SURETY**

\_\_\_\_\_  
Surety's Name and Corporate Seal (Seal)

By: \_\_\_\_\_  
Signature and Title  
(Attach Power of Attorney)

Attest: \_\_\_\_\_  
Signature and Title:

EJCDC No. C-615 (2002 Edition)

Originally prepared through the joint efforts of the Surety Association of America, Engineers Joint Contract Documents Committee, the Associated General Contractors of America, the American Institute of Architects, the American Subcontractors Association, and the Associated Specialty Contractors.

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to Owner to pay for labor, materials, and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.

2. With respect to Owner, this obligation shall be null and void if Contractor:  
2.1. Promptly makes payment, directly or indirectly, for all sums due Claimants, and

2.2. Defends, indemnifies, and holds harmless Owner from all claims, demands, liens, or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials, or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens, or suits and tendered defense of such claims, demands, liens, or suits to Contractor and Surety, and provided there is no Owner Default.

3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.

4. Surety shall have no obligation to Claimants under this Bond until:

4.1. Claimants who are employed by or have a direct contract with Contractor have given notice to Surety (at the addresses described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.

4.2. Claimants who do not have a direct contract with Contractor:

1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials or equipment were furnished or supplied, or for whom the labor was done or performed; and

2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and

3. Not having been paid within the above 30 days, have sent a written notice to Surety and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.

5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.

6. When a Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at Surety's expense take the following actions:

6.1. Send an answer to that Claimant, with a copy to Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.

6.2. Pay or arrange for payment of any undisputed amounts.

7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.

8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any performance bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.

9. Surety shall not be liable to Owner, Claimants; or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

10. Surety hereby waives notice of any change, including changes of time, to the Contract or to related Subcontracts, purchase orders and other obligations.

11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to Surety, Owner, or Contractor shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Owner, or Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

13. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.

14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

#### 15. DEFINITIONS

15.1. Claimant: An individual or entity having a direct contract with Contractor, or with a first-tier subcontractor of Contractor, to furnish labor, materials, or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's Subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

15.2. Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3. Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay Contractor as required by the Contract or to perform and complete or comply with the other terms thereof.

FOR INFORMATION ONLY - Name, Address and Telephone  
Surety Agency or Broker:  
Owner's Representative (engineer or other party):

Surety Services of America  
1901 Des Plaines Ave., Park Ridge, IL 60068  
(847) 384-8619

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA  
TRAVELERS CASUALTY AND SURETY COMPANY  
FARMINGTON CASUALTY COMPANY  
Hartford, Connecticut 06183-9062

POWER OF ATTORNEY AND CERTIFICATE OF AUTHORITY OF ATTORNEY(S)-IN-FACT

KNOW ALL PERSONS BY THESE PRESENTS, THAT TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, corporations duly organized under the laws of the State of Connecticut, and having their principal offices in the City of Hartford, County of Hartford, State of Connecticut, (hereinafter the "Companies") hath made, constituted and appointed, and do by these presents make, constitute and appoint: Dwight F. Miller, David C. Banks, Janice B. Kaplan, Carol F. Tasciotti, Evonne Brown, Adele M. Korczak, Grace Villarreal, Gail Schroeder, Rebecca L. Dauparas, Barbara J. Bailey, Cindy Genslinger, Gina M. Damato, Meredith C. Covelli, Thomas A. Pictor, Erik Janssens, Jane Bronson, Carrie M. Goesel, Michael Damewood, Rosemary Muliere, Kathleen M. Anderson, Vaenessa Sims, Luisa Catalano, David Donovan-Schager, John Fay, Lawrence R. Conrath, Marva Hurd, Jeffrey Malecek, Kristy M. Kreger, Thomas N. Tague, Gabriel Jacquez, Brenda D. Hockberger, Meredith Day, Kristin J. Warzyniak, Sarah A. Thorson, Michael A. Clark, of Naperville, Illinois, their true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred to sign, execute and acknowledge, at any place within the United States, the following instrument(s): by his/her sole signature and act, any and all bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking and any and all consents incident thereto and to bind the Companies, thereby as fully and to the same extent as if the same were signed by the duly authorized officers of the Companies, and all the acts of said Attorney(s)-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

State of ILLINOIS  
County of WILL

On this 26th day of August, 2005, before me personally appeared Brenda D. Hockberger, known to me to be the Attorney-in-Fact of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, the corporation that executed the within instrument and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first written above.

OFFICIAL SEAL  
GINNY ROCKETT  
NOTARY PUBLIC, STATE OF ILLINOIS  
My Comm. Expires 06/04/08

Ginny Rockett  
(Notary Public)

Company officers pursuant to a written delegation of authority.

This Power of Attorney and Certificate of Authority is signed and sealed by facsimile (mechanical or printed) under and by authority of the following Standing Resolution voted by the Boards of Directors of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, which Resolution is now in full force and effect:

VOTED: That the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY have caused this instrument to be signed by their Senior Vice President and their corporate seals to be hereto affixed this 8th day of July, 2004.

STATE OF CONNECTICUT

City of Hartford

COUNTY OF HARTFORD

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA  
TRAVELERS CASUALTY AND SURETY COMPANY  
FARMINGTON CASUALTY COMPANY



By *George W. Thompson*  
George W. Thompson  
Senior Vice President

On this 8th day of July, 2004 before me personally came GEORGE W. THOMPSON to me known, who, being by me duly sworn, did depose and say: that he/she is Senior Vice President of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, the corporations described in and which executed the above instrument; that he/she knows the seals of said corporations; that the seals affixed to the said instrument are such corporate seals; and that he/she executed the said instrument on behalf of the corporations by authority of his/her office under the Standing Resolutions thereof.



*Marie C Tetreault*

My commission expires June 30, 2006 Notary Public  
Marie C. Tetreault

CERTIFICATE

I, the undersigned, Senior Vice President of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, stock corporations of the State of Connecticut, DO HEREBY CERTIFY that the foregoing and attached Power of Attorney and Certificate of Authority remains in full force and has not been revoked; and furthermore, that the Standing Resolutions of the Boards of Directors, as set forth in the Certificate of Authority, are now in force.

Signed and Sealed at the Home Office of the Company, in the City of Hartford, State of Connecticut. Dated this 26th day of August, 2005.



By *Peter Schwartz*  
Peter Schwartz  
Senior Vice President

[leave blank 3" x 5" space for recorder's office]

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

### FIRST AMENDMENT TO MERCY HOSPITAL AND MEDICAL CENTER REDEVELOPMENT AGREEMENT

This First Amendment to Mercy Hospital and Medical Center Redevelopment Agreement (this "**Amendment**") is made as of this 7<sup>th</sup> day of June, 2011, the date that the conditions described in Article II of this Amendment have been complied with to the City's satisfaction (the "**Effective Date**") by and between the City of Chicago, an Illinois municipal corporation (the "**City**"), acting by and through its Department of Housing and Economic Development ("**HED**"), formerly known as the Department of Planning and Development, and Mercy Hospital and Medical Center, an Illinois not-for-profit corporation (the "**Developer**").

#### RECITALS

A. Developer and the City have entered into a Mercy Hospital and Medical Center Redevelopment Agreement dated as of August 23, 2006 (the "**RDA**"), which was recorded with the Recorder of Deeds of Cook County on August 23, 2006 as Document No. 0623532073 pursuant to which the City provided additional financing to assist Developer in completing the Project (as defined in the RDA), which is located on the property described in Exhibit A attached hereto (the "**Property**"). Capitalized terms not otherwise defined in this Amendment shall have the meanings given them in the RDA.

B. In connection with obtaining Lender Financing, the Developer has requested that the City consent to the execution and recording of a New Mortgage against the Property. In addition, the Developer has requested that the City amend the RDA to modify the deadlines to complete the Project, extend the deadlines to comply with requirements to use MBEs and WBEs, to subordinate the RDA to a loan which will be insured by the United States Department of Housing and Urban Development, and otherwise to amend the RDA.

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:

## ARTICLE I. RECITALS

The foregoing recitals are hereby incorporated into this Amendment by reference and made a contractual part hereof.

## ARTICLE II. CLOSING CONDITIONS

The effectiveness of this Amendment is subject to the covenants and agreements contained herein, and the satisfaction of the following conditions (collectively, the “**Closing Conditions**”):

(a) Amendment. The execution of this Amendment by all parties and the recording of this Amendment.

(b) Title. The Developer has furnished the City with a date down endorsement to the Title Policy for the Property, certified by the Title Company, dated within ten days before the date this Amendment is signed, showing the Developer as the named insured, satisfying the requirements described in **Section 5.05** of the RDA and noting the recording of this Amendment as an encumbrance against the Property.

(c) Evidence of Clean Title. The Developer, at its own expense, has provided the City with searches, updated within twenty days before the date this Amendment is signed, as described under **Section 5.06** of the RDA, showing no liens against the Developer, the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens.

(d) Opinion of the Developer's Counsel. The Developer has furnished the City with an opinion of counsel, substantially in the form attached as Exhibit J to the RDA, with such changes as required by or acceptable to Corporation Counsel; provided, that if the Developer has engaged special counsel in connection with the Project, and such special counsel is unwilling or unable to give some of the opinions set forth in Exhibit J hereto, such opinions were obtained by the Developer from its general corporate counsel.

(e) Corporate Documents; Economic Disclosure Statement. The Developer has delivered to the City the following documents accompanied by a certificate of the secretary or authorized officer of each entity certifying them as true, correct and complete copies that have not been amended or modified: (i) Articles of Organization or Articles of Incorporation, as applicable, (ii) good standing certificate, (iii) written consent or resolutions authorizing the execution of this Amendment, (iv) evidence of incumbency, and (v) operating agreement or bylaws, as applicable. The Developer has delivered Economic Disclosure Statement(s), in the City's then current form, dated the date hereof.

(f) 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** of the RDA to complete the Project and satisfy its obligations under the RDA. If a portion of such funds consists of Lender Financing, the Developer has furnished proof as of the Effective 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 HED a copy of the construction escrow agreement, if any, entered into by the Developer regarding the Lender Financing. Except for liens related to the HUD Loan, any liens against the Property in existence at the Effective Date have been subordinated to certain encumbrances of the City set forth in the RDA pursuant to a Subordination Agreement, in a form acceptable to the City, executed on or prior to the Effective Date, which is to be recorded, at the expense of the Developer, with the Office of the Recorder of Deeds of Cook County.

(g) Other Documents. The Developer has provided such other documents, agreements, instruments, certificates and affidavits as the City may require pursuant to all federal, state or local statutes, laws, regulations, ordinances, executive orders, codes, rules, orders, licenses, judgments, decrees or requirements. If required by HED, the Developer has received results of scofflaw and child support searches with respect to applicable principals of the Developer indicating that no debts are owed.

### ARTICLE III. AMENDMENTS TO RDA

The RDA is amended by making the following deletions, replacements and/or additions to the indicated Sections of the RDA:

Section	Deletion, replacement and/or addition
Throughout the RDA and all Exhibits	All references to "Department of Planning and Development" and "DPD" are deleted and replaced by references to the "Department of Housing and Economic Development" and "HED", respectively.
Exhibits	Delete Exhibit B-3 in its entirety and replace it with Exhibit B-3 attached to this Amendment.  After Exhibit P *Form of Payment Bond add the following:  "Exhibit Q * Form of Phase II Commencement Letter Exhibit R HUD-Required Provisions Rider."
Table of Contents	After Section 5.15 Litigation add the following:  "SECTION 5A. CONDITIONS PRECEDENT TO PHASE II COMMENCEMENT LETTER ..... [ add page number] 5A.01 Developer Obligations.....[ add page number] 5A.02 City Actions.....[ add page number]"
Recitals	After Recital F add the following:  G. <u>HUD-Required Provisions</u> : The Developer has obtained a commitment for a first mortgage loan under Section 242 of the National Housing Act, which will be insured by the United States Department of Housing and Urban Development ("HUD") and which will constitute all or part of the Lender Financing (as defined below). The HUD-insured Lender Financing requires a HUD-Required Provisions Rider (the "HUD Rider") to be incorporated into this Agreement. By the reference in this paragraph, the HUD Rider attached hereto as <u>Exhibit R</u> is hereby

Section	Deletion, replacement and/or addition
	incorporated herein and made a part hereof.
Section 2, Definitions	<p>Delete the text of the defined term, "Term of the Agreement" in its entirety and replace it with the following:</p> <p><b>"Term of the Agreement"</b> shall mean the period of time commencing on the Closing Date and ending on the later of (a) December 31, 2029, or (b) 180 days after the date on which the HUD Loan has been repaid or terminated.</p> <p>To the end of the defined term, "Title Policy" add the following:</p> <p>"provided, however, that this Agreement shall be subject and subordinate to the HUD Loan as provided in the HUD Rider."</p> <p>Add the following defined terms:</p> <p><b>"HUD Loan"</b> shall mean the loan to be made by Prudential Huntoon Paige Associates, Ltd., a Delaware corporation (as assigned to it by the nominal initial lender, JP Morgan Health Care &amp; Housing Corp.), or any other HUD-approved mortgagee, or its successors or assigns to the Developer, and insured or held by HUD under Section 242 of the National Housing Act, in the principal amount of \$65,224,000, with a stated maturity of 25 years from the commencement of amortization (with amortization to commence thereon no later than the 26th month after HUD's initial endorsement of the same for mortgage insurance). The HUD Loan is described on the HUD-Required Provisions Rider attached to this Amendment as Exhibit E and is evidenced and secured by the HUD/FHA Loan Documents (as defined in such HUD-Required Provisions Rider)."</p> <p><b>"HUD Mortgage"</b> shall mean the mortgage securing the HUD Loan.</p> <p><b>"Phase II Commencement Letter"</b> shall mean that letter from HED to the Developer indicating that the Developer has fully complied with all of the conditions of Section 5A.01 herein that apply to Phase II.</p>
Section 3.01 The Project	<p>Delete the text of Section 3.01 in its entirety and replace it with the following:</p> <p>"The Developer shall use its reasonable best efforts to complete the applicable components of the Project in accordance with the schedule entitled, "Mercy Hospital Capital Expenditure Cash Flow 2006-2030" attached hereto as <b>Exhibit B-3</b>.</p> <p>With respect to Phase I, the Developer shall, pursuant to the Plans and Specifications and subject to the provisions of <b>Section 18.17</b> hereof:</p>

Section	Deletion, replacement and/or addition						
	<p>(a) shall obtain the Interim Completion Certificate (as defined in <b>Section 7.01</b>) not later than March 31, 2016; and</p> <p>(b) commence and complete construction of Phase I not later than July 1, 2018.</p> <p>With respect to Phase II, if the Developer elects to redevelop Phase II, as evidenced by the Developer's written request that the City issue a Phase II Commencement Letter, then:</p> <p>(a) not later than July 1, 2018, the Developer shall submit a request that the City issue a Phase II Commencement Letter; and</p> <p>(b) after obtaining a Phase II Commencement Letter, the Developer shall, pursuant to the Plans and Specifications and subject to the provisions of <b>Section 18.17</b> hereof, commence and complete construction of Phase II not later than January 10, 2029.</p>						
Section 4.01, Total Project Costs and Sources of Funds	<p>Delete the text of Section 4.01 in its entirety and replace it with the following:</p> <p>The Total Project Costs are estimated to be \$263,151,638, to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:</p> <table data-bbox="456 1073 1435 1209"> <tr> <td>Equity (distributable surplus cash from operations)</td> <td>\$159,927,638</td> </tr> <tr> <td>Lender Financing</td> <td>\$ 65,224,000</td> </tr> <tr> <td>Estimated City Funds</td> <td><u>\$ 38,000,000</u></td> </tr> </table> <p><b>(ESTIMATED) TOTAL PROJECT COSTS \$263,151,638</b></p>	Equity (distributable surplus cash from operations)	\$159,927,638	Lender Financing	\$ 65,224,000	Estimated City Funds	<u>\$ 38,000,000</u>
Equity (distributable surplus cash from operations)	\$159,927,638						
Lender Financing	\$ 65,224,000						
Estimated City Funds	<u>\$ 38,000,000</u>						
Section 5 Conditions Precedent	After Section 5, add a new SECTION 5A. CONDITIONS PRECEDENT TO THE PHASE II COMMENCEMENT LETTER in the form attached hereto as <u>Exhibit C</u> .						
Section 6.01, Bid Requirement for General Contractor and Subcontractors	<p>Delete the following phrase:</p> <p>shall not exceed ____% of the total amount of the Construction Contract</p> <p>And replace it with the following phrase:</p> <p>shall not exceed 6% of the total amount of the Construction Contract</p>						
Section 6.03, Performance and Payment Bonds	<p>Delete the following sentence:</p> <p>"The City shall be named as obligee or co-obligee on any such bonds."</p> <p>And replace it with the following sentence:</p>						

Section	Deletion, replacement and/or addition
	<p>“Subject to HUD’s applicable requirements regarding the HUD Loan (if any), the City shall be named as obligee or co-obligee on any such bonds.”</p>
<p>Section 7.01, Certificates of Completion of Construction</p>	<p>Delete the text of Section 7.01 in its entirety and replace it with the following:</p> <p>“Upon completion of the construction of the applicable component of the Project, in accordance with the terms of this Agreement, and upon the Developer's written request, HED shall issue to the Developer an Initial Completion Certificate, an Interim Completion Certificate and the Final Completion Certificate (each, a “<b>Certificate</b>”), as applicable, all in recordable form certifying that the Developer has fulfilled its obligation to complete the applicable component of the Project in accordance with the terms of this Agreement.</p> <p>(a) The Initial Completion Certificate will not be issued until:</p> <p>(i) The Exterior Facade Restoration Work has been completed and approved in the sole discretion of HED; and</p> <p>(ii) The City’s Monitoring and Compliance Unit has verified that the Developer is in full compliance with City requirements regarding Prevailing Wage set forth in <b>Section 8.09</b> with respect to the construction of the Exterior Facade Restoration Work; and</p> <p>(iii) There exists neither an Event of Default (after any applicable cure period) which is continuing nor a condition or event which, with the giving notice or passage of time or both, would constitute an Event of Default.</p> <p>The City confirms that prior to the Effective Date of this Amendment, (x) the Exterior Facade Restoration Work has been completed and approved by HED, and (y) the City’s Monitoring and Compliance Unit has verified that the Developer is in full compliance with City requirements regarding Prevailing Wage set forth in <b>Section 8.09</b> with respect to the construction of the Exterior Facade Restoration Work.</p> <p>(b) The Interim Completion Certificate will not be issued until:</p> <p>(i) The City’s Monitoring and Compliance Unit has verified that the Developer is in full compliance with City requirements set forth in <b>Section 10</b> and <b>Section 8.09</b> (MBE/WBE, City Residency and Prevailing Wage) with respect to the construction of the Exterior Facade Restoration Work and all other portions of the Project which have been completed on or before December 31, 2015; and</p> <p>(ii) There exists neither an Event of Default (after any applicable cure period) which is continuing nor a condition or event which, with the giving</p>

Section	Deletion, replacement and/or addition
	<p>notice or passage of time or both, would constitute an Event of Default.</p> <p>(c) The Final Completion Certificate will not be issued until:</p> <p>(i) The City has issued an Initial Completion Certificate and an Interim Completion Certificate; and</p> <p>(ii) The Developer demonstrates that construction of Phase I of the Project has been completed; and</p> <p>(iii) The City's Monitoring and Compliance Unit has verified that the Developer is in full compliance with City requirements set forth in <b>Section 10</b> and <b>Section 8.09</b> (MBE/WBE, City Residency and Prevailing Wage) with respect to the construction of Phase I of the Project, and 100% of the Developer's MBE/WBE Commitment in <b>Section 10.03</b> has been fulfilled; and</p> <p>(iv) There exists neither an Event of Default (after any applicable cure period) which is continuing nor a condition or event which, with the giving notice or passage of time or both, would constitute an Event of Default.</p> <p>HED 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."</p>
Section 7.02 Effect of Issuance of Certificate; Continuing Obligations	<p>Delete the following phrase:</p> <p>"Those covenants specifically described at <b>Sections 8.02, and 8.19</b> as covenants that run with the land"</p> <p>And replace it with the following phrase:</p> <p>"Those covenants specifically described at <b>Sections 8.02, 8.06 and 8.19</b> as covenants that run with the land"</p> <p>Add the following text to the end of Section 7.02:</p> <p>"Notwithstanding anything to the contrary contained in this Agreement, the Developer shall have no affirmative obligation to redevelop Phase II; <u>provided, however,</u> that if the Developer elects to redevelop Phase II, as evidenced by the Developer's written request that the City issue a Phase II Commencement Letter, then the Developer shall complete such redevelopment of Phase II in accordance with this Agreement."</p>

<b>Section</b>	<b>Deletion, replacement and/or addition</b>
Section 7.03, Failure to Complete	<p>Add the following text to the end of Section 7.03:</p> <p>“and (c) the right to seek reimbursement of the City Funds from the Developer”</p>
Section 8.06 [Reserved]	<p>Add the following Section title and text to Section 8:06:</p> <p><u>Operating Covenant.</u></p> <p>The Developer shall adhere to the following covenants throughout the Term of the Agreement:</p> <ul style="list-style-type: none"> <li>(i) preserve its corporate legal existence, preserve all rights and licenses to the extent necessary or desirable in the operation of its business and affairs and be qualified to do business and conduct its affairs in each jurisdiction where its ownership of property or the conduct of its business or affairs requires such qualification;</li> <li>(ii) operate a full service, acute care hospital on the Property;</li> <li>(iii) maintain not-for-profit status under Section 501(c)(3) of the Internal Revenue Code as in effect from time to time;</li> <li>(iv) unless otherwise permitted pursuant to or under the terms of this Agreement, maintain ownership and occupancy of all facilities property for which it has received City Funds for reimbursement for construction or renovations;</li> <li>(v) use its facilities in furtherance of its lawful corporate purposes and cause its business to be carried on and conducted and its property to be maintained, preserved and kept in good repair and in as safe condition as its operations will permit;</li> <li>(vi) complete Phase I according to the approved scope and the timeline described in <u>Section 3.01</u> and, if the Developer elects to redevelop Phase II, as evidenced by the Developer’s written request that the City issue a Phase II Commencement Letter, then complete Phase II according to the approved scope and the timeline described in <u>Section 3.01</u>;</li> <li>(vii) rectify all building code violations in any buildings which have been renovated as part of the Project by the completion of construction;</li> <li>(viii) procure and maintain all necessary licenses and permits and use its best efforts to maintain the status of its health care facilities as providers of health care services eligible for payment under those third-party payment programs which its governing body</li> </ul>

Section	Deletion, replacement and/or addition
	<p>determines are appropriate, including maintenance of accreditation through the Joint Commission, or other agency approved by the U.S. Department of Health and Human Services' Centers for Medicare &amp; Medicaid Services ("CMS");</p> <p>(ix) procure and maintain all licenses and permits granted by the Illinois Health Facilities Planning Board which are necessary to complete the Project;</p> <p>(x) maintain CMS minimum quarterly composite core measures scores of seventy-five percent (75%) using the scoring criteria in effect as of the date of this Agreement;</p> <p>(xi) operate its Facilities so as not to illegally discriminate;</p> <p>(xii) maintain charity care/financial assistance policies that meet or exceed Public Act 094-0885, the Fair Patient Billing Act, effective on January 1, 2007;</p> <p>(xiii) operate a full-service Emergency Room that follows all laws and regulations related to the Emergency Medical Treatment and Active Labor Act, (42 USC 1395dd);</p> <p>(xiv) continue to provide services to Medicare and Medicaid patients;</p> <p>(xv) continue to provide its full mission in patient care and education and research in support of community benefit; and</p> <p>(xvi) maintain or cause to be maintained, as its sole cost and expense, the insurance described in <u>Section 12</u>.</p> <p>In the event of a default for any of the covenants in this <u>Section 8.06</u>, the City shall have the right to exercise any remedies described or referred to in this Agreement.</p>
Section 8.09, Prevailing Wage	<p>Add the following to the end of the Section:</p> <p>"Pursuant to Section 11 of the Illinois Prevailing Wage Act, 820 ILCS 130/11, the requirements of the Illinois Prevailing Wage Act will not apply to any portion of the construction work of the Project that will be paid for from the proceeds of the HUD Loan. Therefore, notwithstanding any contrary provision of this Agreement, for any portion of the construction work of the Project that will be paid for from the proceeds of the HUD Loan, the Developer covenants and agrees to pay, and to contractually obligate and cause the General Contractor and each subcontractor to pay, prevailing wage rates determined under the Davis-Bacon Act, 40</p>

Section	Deletion, replacement and/or addition
	U.S.C. Section 276a <i>et seq.</i> ”
Section 15.02, Remedies	Delete the text of Section 15.02 in its entirety and replace it with the following:  “Upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements, suspend and withhold disbursement of City Funds and/or seek reimbursement of any City Funds paid. 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.”
Exhibit Q Form of Phase II Commencement Letter	At the end of the RDA, add a new <u>Exhibit Q</u> Form of Phase II Commencement Letter in the form attached hereto as <u>Exhibit D</u> .
Exhibit R HUD-Required Provisions Rider	At the end of the RDA, add a new <u>Exhibit R</u> HUD-Required Provisions Rider in the form attached hereto as <u>Exhibit E</u> .

**ARTICLE IV  
COVENANTS, REPRESENTATIONS AND WARRANTIES OF DEVELOPER**

Developer covenants, represents and warranties that:

(a) such party has the right, power and authority to enter into, execute, deliver and perform this Amendment. The execution, delivery and performance by such party of this Amendment have been duly authorized by all necessary action, and do not and will not violate its Articles of Organization, Articles of Incorporation, Operating Agreement or Bylaws, as applicable, any applicable provision of law, or constitute a breach of, default under or require the consent under any agreement, instrument or document to which such party is now a party or by which such party is now or may become bound;

(b) such party is not in default with respect to any provision of the RDA, the agreements evidencing the Lender Financing or any related agreements; and

(c) the proceeds of the HUD Loan will be used solely to repay existing Lender Financing, pay administrative expenses in connection with the HUD Loan and to fund the costs to complete the Project.

**ARTICLE V  
CONSENT OF CITY**

Pursuant to **Section 16** of the RDA, the City hereby consents to the making of the HUD Mortgage and such HUD Mortgage shall be deemed to be a Permitted Mortgage as that term is used in the RDA.

## ARTICLE VI

### MISCELLANEOUS

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

B. No Effect on Recording Priority of RDA or Subordination Agreements. The parties agree that entering into this Amendment shall have no effect on the recording priority of the RDA (or any outstanding subordination agreements that might relate thereto) and that this Amendment shall relate back to the dates that each of the RDA (or any outstanding subordination agreements that might relate thereto) were originally recorded in the land title records of Cook County, Illinois.

C. No Change in Defined Terms. All capitalized terms not otherwise defined herein, shall have the same meanings as set forth in the RDA.

D. Other Terms in the RDA Remain; Conflict.

(a) Except as explicitly provided in this Amendment, all other provisions and terms of the RDA shall remain unchanged.

(b) In the event of a conflict between any provisions of this Amendment and the provisions of the RDA, the provisions of this Amendment shall control. Other than as specifically modified hereby, the terms and conditions of the RDA shall remain in effect with respect to the parties thereto.

E. Representations and Warranties of Developer. Developer acknowledges and agrees that, notwithstanding any other terms or provisions of this Amendment to the contrary, Developer shall remain liable for all of its obligations and liabilities under the RDA, as amended by this Amendment.

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

G. Recording and Filing. Developer shall cause this Amendment to be recorded and filed on the date hereof against the Property legally described in Exhibit A hereto in the conveyance and real property records of the county in which the Property is located. Developer shall pay all fees and charges incurred in connection with any such recording. Upon recording, Developer shall immediately transmit to the City an executed original of this Amendment showing the date and recording number of record.

H. 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.

I. Counterparts. This Amendment 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.

J. Governing Law. This Amendment 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.

K. Binding Effect. This Amendment shall be binding upon Developer and the City and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of Developer and the City and their respective successors and permitted assigns (as provided herein).

L. No Business Relationship with City Elected Officials. Pursuant to Section 2-156-030(b) of the Municipal Code of Chicago, 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 official has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion of 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. Violation of Section 2-156-030(b) by any elected official, or any person acting at the direction of such official, with respect to the RDA or this Amendment or in connection with the transactions contemplated hereby and thereby, shall be grounds for termination of the RDA or this Amendment and the transactions contemplated hereby and thereby. 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 Amendment or the transactions contemplated thereby.

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

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

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

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

**CITY OF CHICAGO**, acting by and through its  
Department of Housing and Economic  
Development

By: \_\_\_\_\_  
Name: Andrew J. Mooney  
Title: Commissioner

**MERCY HOSPITAL AND MEDICAL CENTER**

By:   
Name: Sheila Lyne  
Title: President and CEO

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

**CITY OF CHICAGO**, acting by and through its  
Department of Housing and Economic  
Development

By:  \_\_\_\_\_  
Name: Andrew J. Mooney  
Title: Commissioner

**MERCY HOSPITAL AND MEDICAL CENTER**

By: \_\_\_\_\_  
Name: Sheila Lyne  
Title: President and CEO





**EXHIBIT A  
To First Amendment**

**The Property**

**PIN Numbers:**

17-27-129-001  
17-27-129-002  
17-27-129-013  
17-27-129-019  
17-27-129-092  
17-27-129-094  
17-27-129-095  
17-27-123-015  
17-27-123-016  
17-27-123-017  
17-27-123-018  
17-27-123-019  
17-27-123-020  
17-27-123-021  
17-27-123-022  
17-27-123-023

(legal description attached)

**Exhibit A**

**PARCEL 1**

LOTS A, B AND C IN MERCY HOSPITAL AND MEDICAL CENTER REDEVELOPMENT BEING A CONSOLIDATION OF BLOCKS 62, 63, 64, 68, 69, 76 AND 77 AND PARTS OF BLOCKS 61, 65, 66, 67, 70, 75 AND 78 AND VACATED STREETS AND ALLEYS, ALL IN CANAL TRUSTEE'S SUBDIVISION OF THE WEST HALF OF SECTION 27, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPT THAT PART OF LOT C LYING EAST OF A LINE, BEING THE WEST LINE OF ANTONIO'S SUBDIVISION ACCORDING TO THE PLAT THEREOF RECORDED APRIL 9, 2007 AS DOCUMENT 0709906052, DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE SOUTH LINE OF LOT C THAT IS 701.50 FEET WEST OF THE SOUTHEAST CORNER OF LOT D IN SAID SUBDIVISION, AS MEASURED ALONG THE SOUTH LINE OF SAID LOTS C AND D; THENCE NORTH 00 DEGREES 24 MINUTES 27 SECONDS EAST 150.00 FEET; THENCE NORTH 00 DEGREES 03 MINUTES 07 SECONDS EAST, 114.37 FEET; THENCE NORTHEASTERLY 59.31 FEET ALONG THE ARC OF A CIRCLE, HAVING A RADIUS OF 60.33 FEET, CONCAVE SOUTHEASTERLY, AND WHOSE CHORD BEARS NORTH 28 DEGREES 12 MINUTES 59 SECONDS EAST A DISTANCE OF 56.95 FEET; THENCE NORTHEASTERLY 59.26 FEET ALONG THE ARC OF A CIRCLE, HAVING A RADIUS OF 60.00 FEET, CONCAVE NORTHWESTERLY, AND WHOSE CHORD BEARS NORTH 28 DEGREES 05 MINUTES 07 SECONDS EAST A DISTANCE OF 56.88 FEET; THENCE NORTH 00 DEGREES 12 MINUTES 36 SECONDS WEST, 84.94 FEET; THENCE NORTHERLY 18.02 FEET ALONG THE ARC OF A CIRCLE, HAVING A RADIUS OF 30.96 FEET, CONCAVE WESTERLY, AND WHOSE CHORD BEARS NORTH 16 DEGREES 53 MINUTES 19 SECONDS WEST A DISTANCE OF 17.77 FEET; THENCE NORTHWESTERLY 47.16 FEET ALONG THE ARC OF A CIRCLE, HAVING A RADIUS OF 74.72 FEET, CONCAVE SOUTHWESTERLY, AND WHOSE CHORD BEARS NORTH 51 DEGREES, 38 MINUTES 52 SECONDS WEST A DISTANCE OF 46.38 FEET; THENCE NORTHWESTERLY 43.55 FEET ALONG THE ARC OF A CIRCLE, HAVING A RADIUS OF 35.84 FEET, CONCAVE NORTHEASTERLY, AND WHOSE CHORD BEARS NORTH 34 DEGREES 55 MINUTES 06 SECONDS WEST A DISTANCE OF 40.92 FEET; THENCE NORTH 00 DEGREES 06 MINUTES 30 SECONDS WEST, 70.73 FEET TO THE NORTH LINE OF SAID LOT C, ALL IN COOK COUNTY, ILLINOIS.

**PARCEL 2**

THE EAST HALF OF BLOCK 60 (EXCEPT THE NORTH HALF OF THE NORTHEAST QUARTER OF BLOCK 60 AND EXCEPT THAT PART TAKEN FOR STREETS AND ALLEYS) AND THE EAST HALF OF BLOCK 71 (EXCEPT THAT PART TAKEN FOR STREETS AND ALLEYS) IN CANAL TRUSTEES SUBDIVISION OF THE WEST HALF OF SECTION 27, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ALSO

LOTS 1, 2 AND 3 IN ASSESSOR'S DIVISION OF BLOCK 74 IN CANAL TRUSTEES SUBDIVISION OF THE WEST HALF OF SECTION 27, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ALSO

LOTS 1 TO 9, INCLUSIVE, IN O. P. BRIGGS SUBDIVISION OF THE NORTH HALF OF THE NORTHEAST QUARTER OF BLOCK 60 IN CANAL TRUSTEES SUBDIVISION OF THE WEST HALF OF SECTION 27, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**PARCEL 3**

LOT 3 AND LOT 7 IN ANTONIO'S SUBDIVISION, BEING A RESUBDIVISION IN THE WEST HALF OF SECTION 27, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO A PLAT THEREOF RECORDED APRIL 9, 2007 AS DOCUMENT 0709906052, ALL TAKEN AS A TRACT EXCEPT THAT PART THEREOF DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 7; THENCE NORTH 00°24'27" EAST, ALONG THE WEST LINE OF SAID LOTS 7 AND 3, A DISTANCE OF 135.00 FEET; THENCE SOUTH 90°00'00" EAST, 203.00 FEET; THENCE SOUTH 00°24'27" WEST, 135.00 FEET TO THE SOUTH LINE OF SAID LOT 3; THENCE NORTH 90°00'00" WEST, ALONG THE SOUTH LINE OF SAID LOTS 3 AND 7, A DISTANCE OF 203.00 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

**Endorsement –continued**

**PARCEL 4**

**LOT 4 IN ANTONIO'S SUBDIVISION, BEING A RESUBDIVISION IN THE WEST HALF OF SECTION 27, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.**

**PARCEL 5**

**THAT PART OF LOT 2 IN ANTONIO'S SUBDIVISION, BEING A RESUBDIVISION IN THE WEST HALF OF SECTION 27, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 2; THENCE SOUTH 00°00'00" WEST, ALONG THE EAST LINE THEREOF, 135.34 FEET TO THE POINT OF BEGINNING; THE NEXT 9 COURSES BEING ALONG THE PERIMETER LINES OF SAID LOT 2; THENCE SOUTH 00°00'00" WEST, 166.78 FEET; THENCE NORTH 90°00'00" WEST, 225.23 FEET; THENCE SOUTH 00°00'00" WEST, 13.82 FEET; THENCE NORTH 90°00'00" WEST, 22.58 FEET; THENCE NORTHWESTERLY 59.68 FEET ALONG THE ARC OF A CIRCLE, HAVING A RADIUS OF 40.00 FEET, CONCAVE NORTHEASTERLY, AND WHOSE CHORD BEARS NORTH 47°15'17" WEST A DISTANCE OF 54.30 FEET; THENCE NORTH 90°00'00" WEST, 8.93 FEET; THENCE NORTHEASTERLY 49.96 FEET ALONG THE ARC OF A CIRCLE, HAVING A RADIUS OF 60.00 FEET, CONCAVE NORTHWESTERLY, AND WHOSE CHORD BEARS NORTH 23°38'46" EAST, A DISTANCE OF 48.53 FEET; THENCE NORTH 00°12'36" WEST, 84.94 FEET; THENCE NORTHERLY 14.69 FEET ALONG THE ARC OF A CIRCLE, HAVING A RADIUS OF 30.96 FEET, CONCAVE WESTERLY AND WHOSE CHORD BEARS NORTH 13°48'14" WEST, A DISTANCE OF 14.55 FEET; THENCE NORTH 89°57'14" EAST, 280.93 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.**

**PARCEL 6**

**NON-EXCLUSIVE EASEMENT APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 5 FOR PEDESTRIAN AND VEHICULAR INGRESS AND EGRESS OVER, ACROSS AND UPON THE EASEMENT PARCEL AS DEFINED AND DESCRIBED IN GRANT OF ACCESS EASEMENT DATED APRIL 6, 2006 AND RECORDED APRIL 11, 2006 AS DOCUMENT 0610118091 MADE BY MERCY HOSPITAL AND MEDICAL CENTER TO EASTGATE VILLAGE FIVE MODEL, L.L.C.**

**PARCEL 7**

**NON-EXCLUSIVE EASEMENT APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 5 FOR UTILITY PURPOSES UNDER, THROUGH AND ACROSS THE EASEMENT PARCEL AS DEFINED AND DESCRIBED IN GRANT OF UTILITY EASEMENT DATED APRIL 6, 2006 AND RECORDED APRIL 11, 2006 AS DOCUMENT 0610118089 MADE BY MERCY HOSPITAL AND MEDICAL CENTER TO EASTGATE VILLAGE FIVE MODEL, L.L.C.**

**PARCEL 8**

**NON-EXCLUSIVE EASEMENT APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 5 FOR INGRESS AND EGRESS OVER AND UPON THE EASEMENT PARCEL AS DEFINED AND DESCRIBED AND TO TAP INTO THE EXISTING STORM WATER FACILITIES AS DEFINED AND DESCRIBED IN AND CREATED BY THE CROSS EASEMENT AGREEMENT DATED AS OF NOVEMBER 30, 2010 AND RECORDED DECEMBER 14, 2010 AS DOCUMENT 1034831094 MADE BY AND BETWEEN EASTGATE VILLAGE ONE, L.L.C., EASTGATE VILLAGE TWO, L.L.C., EASTGATE VILLAGE FIVE, L.L.C., EASTGATE VILLAGE SIX, L.L.C., AND MERCY HOSPITAL AND MEDICAL CENTER.**

**Exhibit B-3  
to First Amendment**

**Mercy Hospital Capital Expenditure Cash Flow 2006-2030**

(attached)

Mercy Hospital Capital Expenditure Cash Flow 2006-2030  
Inflation Rate 3%

			0	1	2	3	4	5	6	7	8	9	10		
Cost Center	Summary Category	Uses of Funds	Costs (2005 Dollars)	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
<b>TIF ELIGIBLE COSTS</b>															
9040		Emergency Systems	Repair/Replace Bulk O2 Pad	224,000	0	224,000	0	0	0	0	0	0	0	0	0
9040		Emergency Systems	Replace & Upgrade Day Tank for Emergency Generators	31,000	0	31,000	0	0	0	0	0	0	0	0	0
9040		Emergency Systems	Emergency Electrical Transfer Switches (20 switches)	400,000	0	0	0	0	0	0	200,000	0	0	0	0
8670		Exterior	Building Façade Repair/Renovation	2,487,962	0	2,487,962	0	0	0	0	0	0	0	0	0
9040		Exterior	New Roofs Main Hospital Building	7,000,000	0	0	0	0	0	0	0	0	0	0	0
9040		Exterior	Energy Star Window Replacement	3,000,000	0	0	0	0	0	0	0	0	0	0	2,002,702
8670	Hospital Facility Rehabilitation	Fire Safety Systems	Hospital Wide Fire Sprinkler/Alarm System Up Grade	12,230,629	0	0	0	271,471	0	6,601,818	4,808,848	0	0	0	0
9040		HVAC	Boiler Feed Water Pump	90,000	0	90,000	0	0	0	0	0	0	0	0	0
9040		HVAC	Air Handler Upgrade, S10, S19, S15	0	0	0	108,409	0	0	0	0	0	0	0	0
9040		HVAC	Install Final Filters -all Air handlers for 90% efficiency per	570,000	0	0	0	0	0	0	0	0	743,721	0	0
9040		HVAC	CoolinTower Up Grades/Replacements	1,200,000	0	0	366,219	177,692	0	0	300,000	0	0	0	0
9040		HVAC	Condensate Return Pump	5,200	0	5,200	0	0	0	0	0	0	0	0	0
9040		HVAC	Boiler Room Monitoring Annunciator & Controls	171,947	0	171,947	0	37,028	0	0	0	0	224,352	0	0
9040		HVAC	Air handling Units - Outside Air Damper Replacements	150,000	0	0	0	0	0	0	0	0	0	0	0
9040		HVAC	Air handling Units Replacement S2 and S27	902,219	0	0	0	93,756	174,781	633,682	0	0	0	0	0
9040		HVAC	(2) Carrier Chiller Replacement - #1 & #2 (\$500K ea)	1,000,000	0	0	0	0	0	0	0	0	0	0	0
9040		HVAC	Hot Water Heater Replacement	205,000	0	205,000	0	0	0	0	0	0	0	0	0
9040		HVAC	Boiler Replacements (4)	4,000,000	0	0	0	0	0	0	0	0	0	0	2,536,035
9040		HVAC	HVAC Up Grades to the Surgery Suites	169,835	0	169,835	0	0	0	0	0	0	0	0	0
9040		HVAC	HVAC Up Grades - 12th fl. Mamography Suites	0	0	0	58,540	0	0	0	0	0	0	0	0
9040		Interior Systems	Data Center HVAC Improvements	100,000	0	0	0	78,976	0	0	0	0	0	134,392	0
9040		HVAC	Repl. Multizone AHU #501	45,000	0	0	0	0	0	0	0	0	0	0	0
9040		Interior Systems	Facility wide Elevator up grades	2,000,000	0	0	0	0	0	0	0	0	0	2,687,833	0
9040		HVAC	Motor Control & Bucket Replacement	1,000,000	0	0	105,000	183,433	0	0	0	0	0	0	0
9040		Interior Systems	Reheat Coils for 10 Surgical Suites	240,790	0	240,790	0	0	0	0	0	0	0	0	0
9040	Hospital Facility Rehabilitation	Interior Systems	Building Automated Control Replacement	750,000	0	0	249,877	0	0	0	0	0	978,580	0	0
9040		Interior Systems	Vacuum Pump replacement	135,000	0	0	0	0	0	0	0	0	176,144	0	0
9040		Interior Systems	Rehabilitation of 1st floor, SICU, Surgery	135,000	0	0	0	0	0	0	0	0	176,144	0	0
9040			Medical Air Compressor					44,900							
8670		Rehabilitation of Patient Care/Labs	Rehabilitation of 2nd floor	2,000,000	0	0	0	0	0	0	0	0	0	0	0
8670		Rehabilitation of Patient Care/Labs	Rehabilitation 3rd Floor - Birthing Center	4,312,671	0	0	0	0	0	2,285,714	2,026,954	0	0	0	0
8670		Rehabilitation of Patient Care/Labs	Rehabilitation of 4th floor patient care nursing stations rooms	3,200,000	0	0	0	0	0	0	0	3,200,000	0	0	0
8670		Rehabilitation of Patient Care/Labs	Rehabilitation of 5th floor patient care nursing stations rooms	1,000,000	0	0	0	0	0	0	0	0	0	0	0
8670		Rehabilitation of Patient Care/Labs	Rehabilitation of 6th floor patient care nursing stations rooms	1,000,000	0	0	0	0	0	0	0	0	0	0	0
8670		Rehabilitation of Patient Care/Labs	Rehabilitation of 7th floor patient care nursing stations rooms	1,000,000	0	0	0	0	0	0	0	0	0	0	0
8670		Rehabilitation of Patient Care/Labs	Rehabilitation of 8th floor patient care nursing stations rooms	1,000,000	0	0	0	0	0	0	0	0	0	0	0
8670		Rehabilitation of Patient Care/Labs	Rehabilitation of 9th floor patient care nursing stations rooms	1,000,000	0	0	0	0	0	0	0	0	0	0	0
8670		Rehabilitation of Patient Care/Labs	Rehabilitation of 10th floor patient care nursing stations rooms	1,000,000	0	0	0	0	0	0	0	0	0	0	0
8670		Rehabilitation of Patient Care/Labs	Rehabilitation of 11th floor/CCU	3,467,988	0	0	0	0	0	2,268,061	1,199,921	0	0	0	0
8670		Rehabilitation of Patient Care/Labs	Rehabilitation of GI Lab	2,243,743	0	0	0	0	0	0	0	0	0	0	0
8670		Rehabilitation of Patient Care/Labs	Reconfiguration of 1st floor pat/visitor egress/dept relocations	2,000,000	0	0	0	0	0	0	0	0	0	0	0
8670	Reconfiguration of Bldg and Site prep for Development	Reconfiguration of Bldg and Site prep for Development	Demolition and Environmental Remediation of Site for	398,000	0	0	398,100	0	0	0	0	0	0	0	0
8670	H Lot Acquisition and Remediation	H Lot Acquisition and Remediation	Buy back of H Lot*	7,500,000	0	0	0	0	7,908,000	0	0	0	0	0	0
8670	H Lot Acquisition and Remediation	H Lot Acquisition and Remediation	Reconfiguration of Parking Lots (E to W)	2,628,685	0	2,628,685	0	0	0	0	0	0	0	0	0
8670	Reconfiguration of Bldg and Site prep for Development	Reconfiguration of Bldg and Site prep for Development	Reconfigure Parking Turn Around	82,400	0	0	82,400	0	0	0	0	0	0	0	0
8670			Parking Lot A Fencing & Landscaping					66,758							
8670			Parking Lot B Fencing & Landscaping					63,876							
8670			East Parking Lot Renovation							1,450,000					
<b>TOTAL TIF ELIGIBLE COSTS</b>			<b>72,077,069</b>	<b>0</b>	<b>5,319,594</b>	<b>1,415,325</b>	<b>888,045</b>	<b>1,017,890</b>	<b>8,082,781</b>	<b>13,239,275</b>	<b>8,535,723</b>	<b>3,200,000</b>	<b>2,298,941</b>	<b>2,822,224</b>	<b>4,538,737</b>
<b>COSTS NOT TIF ELIGIBLE</b>															
8230	Clinical Equipment	Clinical Equipment	Replacement Equipment	6,000,000	0	0	3,000,000	3,000,000	0	0	0	0	0	0	0
8230	Clinical Equipment	Clinical Equipment	Computerized Physician Order Entry, Computer Patient Record	6,000,000	0	0	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	2,609,546	2,687,833	0
8230	Clinical Equipment	Clinical Equipment	Hardware/Software Replacements/Upgrades	2,000,000	0	1,450,000	0	1,450,000	0	0	0	0	0	0	0
6400	Clinical Equipment	Clinical Equipment	(2) Repl. Cath Labs	3,850,000	0	0	3,850,000	0	0	0	0	0	0	0	0
6480	Clinical Equipment	Clinical Equipment	Linear Accelerator	1,000,000	0	0	0	0	0	0	0	0	0	0	0
6450	Clinical Equipment	Clinical Equipment	PACS	2,000,000	0	1,030,000	1,060,900	0	0	0	0	0	0	0	0
6450	Clinical Equipment	Clinical Equipment	Ultrafast CT	1,500,000	0	0	0	0	1,500,000	0	0	0	0	0	0
6450	Clinical Equipment	Clinical Equipment	Special Procedures Lab	1,450,000	0	0	0	0	0	1,731,376	0	0	0	0	0
6450	Clinical Equipment	Clinical Equipment	IS Clinical Infrastructure for HIPAA Regulatory Compliance	1,450,000	0	0	0	0	0	0	0	0	0	0	0
Capital Expenditures over Remaining Years of TIF															
<b>TOTAL NON-TIF ELIGIBLE COSTS</b>			<b>23,800,000</b>	<b>0</b>	<b>2,030,000</b>	<b>2,510,900</b>	<b>7,850,000</b>	<b>5,450,000</b>	<b>2,500,000</b>	<b>2,731,376</b>	<b>1,000,000</b>	<b>1,000,000</b>	<b>2,609,546</b>	<b>2,687,833</b>	<b>0</b>
<b>TOTAL USES OF FUNDS</b>			<b>95,877,069</b>	<b>0</b>	<b>7,349,594</b>	<b>3,926,225</b>	<b>8,738,045</b>	<b>6,467,890</b>	<b>10,582,781</b>	<b>15,970,651</b>	<b>9,535,723</b>	<b>4,200,000</b>	<b>4,908,488</b>	<b>5,510,057</b>	<b>4,538,737</b>

Mercy Hospital Capital Expenditure Cash Flow 2006-2030  
Inflation Rate 3%

4/8/2011

Uses of Funds	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	Total
<b>TIF ELIGIBLE COSTS</b>															
Emergency Systems	0	0	0	0	0	0	0	0	0	0	0	0	0	0	224,000
Emergency Systems	0	0	0	0	0	0	0	0	0	0	0	0	0	0	31,000
Emergency Systems	0	0	0	0	0	0	0	0	0	0	0	0	0	0	200,000
Exterior	0	0	0	500,000	0	0	0	0	0	0	0	0	0	0	2,987,962
Exterior	0	0	1,400,000	1,400,000	0	0	0	0	0	0	0	0	0	0	2,800,000
Exterior	2,150,000	0	0	0	0	0	0	0	0	0	0	0	0	0	4,152,702
Fire Safety Systems	0	0	0	0	0	0	0	0	0	0	0	0	0	0	11,682,137
HVAC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	90,000
HVAC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	108,409
HVAC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	743,721
HVAC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	843,911
HVAC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5,200
HVAC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	433,327
HVAC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
HVAC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	902,219
HVAC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
HVAC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	205,000
HVAC	3,000,900	0	0	0	0	0	0	0	0	0	0	0	0	0	5,536,935
HVAC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	169,835
HVAC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	58,540
Interior Systems	0	0	0	0	0	0	0	0	0	0	0	0	0	0	213,368
HVAC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Interior Systems	0	0	400,000	400,000	0	0	0	0	0	0	0	0	0	0	3,487,833
HVAC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	288,433
Interior Systems	0	0	0	0	0	0	0	0	0	0	0	0	0	0	240,790
Interior Systems	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1,228,457
Interior Systems	0	0	0	0	0	0	0	0	0	0	0	0	0	0	176,144
Interior Systems	0	863,028	1,550,000	0	0	0	0	0	0	0	0	0	0	0	2,589,172
Rehabilitation of Patient Care/Labs	0	486,278	2,201,555	0	0	0	0	0	0	0	0	0	0	0	44,900
Rehabilitation of Patient Care/Labs	0	0	0	0	5,969,745	0	0	0	0	0	0	0	0	0	2,687,833
Rehabilitation of Patient Care/Labs	0	0	0	0	0	0	0	0	0	0	0	0	0	0	10,282,413
Rehabilitation of Patient Care/Labs	0	0	1,343,916	0	0	0	0	0	0	0	0	0	0	0	3,200,000
Rehabilitation of Patient Care/Labs	0	0	1,343,916	0	0	0	0	0	0	0	0	0	0	0	1,343,916
Rehabilitation of Patient Care/Labs	0	0	1,343,916	0	0	0	0	0	0	0	0	0	0	0	1,343,916
Rehabilitation of Patient Care/Labs	0	0	0	1,304,773	0	0	0	0	0	0	0	0	0	0	1,304,773
Rehabilitation of Patient Care/Labs	0	0	0	1,304,773	0	0	0	0	0	0	0	0	0	0	1,304,773
Rehabilitation of Patient Care/Labs	0	0	0	0	1,384,234	0	0	0	0	0	0	0	0	0	1,384,234
Rehabilitation of Patient Care/Labs	0	0	0	0	4,800,506	0	0	0	0	0	0	0	0	0	8,268,488
Rehabilitation of Patient Care/Labs	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Rehabilitation of Patient Care/Labs	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Reconfiguration of Bldg and Site prep for Development	0	0	0	0	0	0	0	0	0	0	0	0	0	0	398,100
H Lot Acquisition and Remediation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	7,908,000
H Lot Acquisition and Remediation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2,628,685
Reconfiguration of Bldg and Site prep for Development	0	0	0	0	0	0	0	0	0	0	0	0	0	0	82,400
															66,758
															63,876
															1,450,000
<b>TOTAL TIF ELIGIBLE COSTS</b>	<b>5,150,900</b>	<b>1,349,306</b>	<b>9,583,304</b>	<b>4,909,546</b>	<b>12,154,486</b>	<b>0</b>	<b>84,506,077</b>								
<b>COSTS NOT TIF ELIGIBLE</b>															
Clinical Equipment	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6,000,000
Clinical Equipment	0	0	0	0	0	0	0	0	0	0	0	0	0	0	11,297,379
Clinical Equipment	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2,900,000
Clinical Equipment	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3,850,000
Clinical Equipment	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1,000,000
Clinical Equipment	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2,090,900
Clinical Equipment	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1,500,000
Clinical Equipment	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1,731,376
Capital Expenditures over Remaining Years of TIF	2,000,000	2,060,000	10,300,000	10,609,000	10,927,270	11,255,088	11,592,741	11,940,523	12,298,739	12,667,701	13,047,732	13,409,164	13,311,439	12,856,510	148,275,905
<b>TOTAL NON-TIF ELIGIBLE COSTS</b>	<b>2,000,000</b>	<b>2,060,000</b>	<b>10,300,000</b>	<b>10,609,000</b>	<b>10,927,270</b>	<b>11,255,088</b>	<b>11,592,741</b>	<b>11,940,523</b>	<b>12,298,739</b>	<b>12,667,701</b>	<b>13,047,732</b>	<b>13,409,164</b>	<b>13,311,439</b>	<b>12,856,510</b>	<b>178,645,560</b>
<b>TOTAL USES OF FUNDS</b>	<b>7,150,900</b>	<b>3,409,306</b>	<b>19,883,304</b>	<b>15,518,546</b>	<b>23,081,756</b>	<b>11,255,088</b>	<b>11,592,741</b>	<b>11,940,523</b>	<b>12,298,739</b>	<b>12,667,701</b>	<b>13,047,732</b>	<b>13,409,164</b>	<b>13,311,439</b>	<b>12,856,510</b>	<b>263,151,638</b>

**Exhibit C  
To First Amendment**

**SECTION 5A. CONDITIONS PRECEDENT TO THE PHASE II COMMENCEMENT LETTER**

**5A.01 Developer Obligations.** The Developer covenants not to commence construction of Phase II until the Developer has requested in writing, and the City has issued and delivered to the Developer, a Phase II Commencement Letter pursuant to this **Section 5A**. The Developer's delivery of such request for a Phase II Commencement Letter shall constitute a certification to the City, as of the date of such request, that 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 under this Agreement or any related agreement, and the representations and warranties contained in this Agreement and any related agreement are true and correct. The following conditions shall have been complied with to the City's satisfaction on or prior to the issuance of the Phase II Commencement Letter:

(a) Project Budget. The Developer has submitted to HED, and HED has approved, a Project Budget for Phase II in accordance with the provisions of **Section 3.03** hereof;

(b) Scope Drawings and Plans and Specifications. The Developer has submitted to HED, and HED has approved, the Scope Drawings and Plans and Specifications for Phase II in accordance with the provisions of **Section 3.02** hereof;

(c) Other Governmental Approvals. The Developer has secured all other necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation for Phase II and has submitted evidence thereof to HED;

(d) Financing. The Developer has furnished proof satisfactory to the City that the Developer has Equity and/or Lender Financing in the amounts set forth in **Section 4.01** hereof to complete Phase II and satisfy its obligations under this Agreement;

(e) Title. The Developer has furnished the City with a copy of the Title Policy for the Property, certified by the Title Company, dated within twenty days of the date the Developer submits the request for a Phase II Commencement Letter, showing the Developer as the named insured and satisfying the requirements described in **Section 5.05**;

(f) Evidence of Clean Title. The Developer, at its own expense, has provided the City with searches, updated within twenty days of the date the Developer submits the request for a Phase II Commencement Letter, as described under **Section 5.06**, showing no liens against the Developer, the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens;

(g) Surveys. The Developer has furnished the City with three (3) copies of the Survey, dated within twenty days of the date the Developer submits the request for a Phase II Commencement Letter;

(h) 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 HED;

(i) Opinion of the Developer's Counsel. On the date the Developer submits the request for a Phase II Commencement Letter, the Developer has furnished the City with an opinion of counsel, substantially in the form attached hereto as Exhibit J, with such changes as required by or acceptable to Corporation Counsel; provided, that if the Developer has engaged special counsel in connection with the Project, and such special counsel is unwilling or unable to give some of the opinions set forth in Exhibit J hereto, such opinions were obtained by the Developer from its general corporate counsel;

(j) Evidence of Prior Expenditures. The Developer has provided evidence satisfactory to HED of the Prior Expenditures in accordance with the provisions of **Section 4.05(a)** hereof;

(k) Documentation. The Developer has provided documentation satisfactory to HED with respect to current employment matters on Phase I and Phase II of the Project, the MBE/WBE utilization plan for Phase II of the Project, and a progress report containing all current information, if any, requested under **Section 8.07** herein;

(l) Environmental. The Developer has provided HED with copies of any updated or new phase I environmental audit or phase II environmental audit with respect to the Property, other than those previously delivered to the City under **Section 5.12**, together with a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits;

(m) Corporate Documents; Economic Disclosure Statement. The Developer has provided a copy of its Articles of Organization or Articles of Incorporation, as applicable, containing the original certification of the Secretary of State of its state of organization; certificates of good standing from the Secretary of State of its state of organization and all other states in which the Developer is qualified to do business; a secretary's certificate or similar instrument in such form and substance as the Corporation Counsel may require; operating agreement of the entity; and such other organizational documentation as the City has requested; and an Economic Disclosure Statement, in the City's then current form, dated the date the Developer submits the request for a Phase II Commencement Letter;

(n) Litigation. The Developer has provided to the Corporation Counsel and HED a description of all pending or threatened litigation or administrative proceedings involving the Developer that will or may affect the ability of the Developer to complete Phase II in accordance with this Agreement, 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;

(o) Construction Contract. The Developer has submitted a copy of the Construction Contract for Phase II pursuant to the requirements of **Section 6.01** herein; and

(p) Non-Commencement of Construction. Construction on Phase II has not yet commenced.

**5A.02 City Actions**. Upon the City's satisfaction with the Developer's documents as

set forth in Section 5A.01 above for Phase II, City will issue a Phase II Commencement Letter to Developer in the form set forth in Exhibit Q hereto.

**Exhibit D  
To First Amendment**

**[Exhibit Q to Redevelopment Agreement]**

**Form of Phase II Commencement Letter**

[prepare on HED letterhead]

[date]

Mercy Hospital and Medical Center  
2525 South Michigan Avenue  
Chicago, Illinois 60616  
Attention: Sheila Lyne, President and CEO

Re: Approval to Commence Construction of Phase II under the terms and conditions of the Mercy Hospital and Medical Center Redevelopment Agreement dated as of August 23, 2006 (the "Agreement") by and between the City of Chicago (the "City") and Mercy Hospital and Medical Center, an Illinois not-for-profit corporation (the "Developer").

Ladies and Gentlemen:

Pursuant to the Agreement, Developer has requested that the City approve Developer's commencement of Phase II of the Project (as defined in the Agreement) and has submitted supporting documents and information to the Department of Housing and Economic Development.

Having (a) reviewed the documents and information supplied by Developer in connection with this request and (b) concluded that the conditions described in **Section 5A.01** of the Agreement have been complied with to the City's satisfaction, I declare that the City is satisfied that the Developer may proceed with the commencement of construction on Phase II of the Project.

CITY OF CHICAGO

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Commissioner  
Department of Housing and Economic  
Development

**Exhibit E  
To First Amendment**

[Exhibit R to Redevelopment Agreement]

HUD-Required Provisions Rider

THIS RIDER is dated June 7 2011 and is attached to and made a part of that certain Mercy Hospital and Medical Center Redevelopment Agreement dated August 23, 2006, as amended by First Amendment to Mercy Hospital and Medical Center Redevelopment Agreement dated as of June 7th, 2011 (collectively the "TIF Redevelopment Agreement"), entered into by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Housing and Economic Development, having its offices at 121 North LaSalle Street, Room 1000, Chicago, Illinois 60602, and Mercy Hospital and Medical Center, an Illinois not-for-profit corporation (the "Developer"), relating to the property in the City of Chicago, Illinois located within the 26<sup>th</sup> and King Drive Redevelopment Project Area as referred to in the TIF Redevelopment Agreement. In the event of any conflict, inconsistency or ambiguity between the provisions of this Rider and the provisions of the TIF Redevelopment Agreement, the provisions of this Rider shall control.

As used in this Rider, the term "HUD Project" shall mean the "Project" defined in the HUD Regulatory Agreement defined below; provided, however, that the HUD Project shall include only the portion of the 26<sup>th</sup> and King Drive Redevelopment Project Area that is encumbered by the Mortgage and the HUD Regulatory Agreement (as both such terms are defined below) and legally described on Attachment 1, Legal Description, to this Rider. This Rider shall not affect any portion of the Project (as defined in the TIF Redevelopment Agreement) other than the parcels legally described on Attachment 1 to this Rider.

In addition, as used in this Rider (a) the term "HUD" shall mean the United States Department of Housing and Urban Development; (b) the term "FHA" shall mean the Federal Housing Administration, an organizational unit within HUD; and (c) the term "HUD/FHA Loan Documents" shall mean the following documents relating to the HUD-insured mortgage loan for the HUD Project (Project No. 071-13010):

- A. Commitment for Insurance of Advances dated March 25, 2011, as amended, issued by the Secretary of HUD pursuant to Section 242 of the National Housing Act to JPMorgan Healthcare and Housing Funding Corporation and later assigned to Prudential Huntoon Paige Associates, Ltd. or other HUD-approved mortgagee (such assignee and its successors and assigns is referred to as ("Mortgagee");
- B. Building Loan Agreement between the Developer and Mortgagee;
- C. Mortgage Note made by the Developer payable to the order of Mortgagee in the aggregate original principal amount of \$65,224,000.000 (the "Mortgage Note");

- D. Mortgage with Rider I, made by Developer in favor of Mortgagee and encumbering the HUD Project as security for the Mortgage Note (the “ HUD Mortgage”);
- E. Security Agreement with Schedule A, between the Developer, as debtor, and Mortgagee and/or the Secretary of HUD as their interest may appear, as secured party;
- F. UCC-1 Financing Statement made by the Developer, as debtor, in favor of Mortgagee and/or the Secretary of HUD as their interests may appear, as secured party recorded with the Cook County Recorder’s Office and to be filed with the Illinois Secretary of State;
- G. Regulatory Agreement with Riders I and II, between the Developer and HUD (the “HUD Regulatory Agreement”);
- H. Certificate of Need;
- I. Organizational Documents – Certificate of Incumbency attaching:
  - (a) Articles of Incorporation;
  - (b) By-Laws;
  - (c) Corporate Resolutions; and
  - (d) Good standing certificate
- J. Proof of Nonprofit Status of Borrower
- K. Mortgage Reserve Fund Agreement w/MRF Schedule
- L. MRF Trust Fund Agreement w/MRF Schedule
- M. Title Policy
- N. Surveyor’s Plat
- O. Surveyor’s Report
- P. Evidence of Zoning Compliance
- Q. Building Permit
- R. Assurance of Utility services
- S. Construction Manager Agreement/Construction Contract

- T. Contractor's Certification Concerning Labor Standards and Prevailing Wage Requirements (FHA Form 2492)
- U. Performance Payment Bonds
- V. Owner-Architect Agreement
- W. Mortgagor's and Architect's Certificate of Payment
- X. Letter from Architect re" Improvements will be w/in Mortgaged Parcel
- Y. Mortgagor's Certificate
- Z. Mortgagee's Certificate with Exhibits A-D
- AA. Equal Employment Opportunity Certificate
- BB. Assurance Compliance under Title VI
- CC. Agreement and Certification
- DD. Mortgagee's Byrd Amendment Certification
  - (a) Originating Mortgagee
  - (b) Mortgagee of Record
- EE. Mortgagor's Byrd Amendment Certification
- FF. Mortgagor's Attorney Opinion
- GG. Letter from Mortgagee that Loan is Current
- HH. Letter from Mortgagor on Person to Contact
- II. HUD Certificate
- JJ. Application for Insurance of Advance of Mortgage Proceeds (92403)
- KK. Operating Certificate/License
- LL. Capitalized interest Draw Schedule
- MM. Evidence of D&O Insurance
- NN. Builder's Risk/Hazard Insurance Certificate
- OO. OAE HUD Office of Architecture and Engineering Approval Letter

- PP. List of Leased and Financed Property
- QQ. Certification for Re-Typed HUD Forms
  - (a) Deposit Account Control Agreement
  - (b) Government Healthcare Receivables Deposit Account Agreement
- RR. Such other loan and security documents related to the loan transaction evidenced by the foregoing as HUD and the Mortgagee may require.

All other capitalized terms used herein and not otherwise defined herein shall have the meanings given to such terms in the TIF Redevelopment Agreement.

- R-1 Notwithstanding anything in the TIF Redevelopment Agreement to the contrary, the provisions of the TIF Redevelopment Agreement are subordinate to all applicable Federal Statutes, HUD mortgage insurance regulations and related HUD directives and administrative requirements other than those HUD mortgage insurance regulations, related HUD directives or administrative requirements which have been waived in writing by HUD with respect to the HUD Project. The provisions of the TIF Redevelopment Agreement are also expressly subordinate to the HUD/FHA Loan Documents. In the event of any conflict between the TIF Redevelopment Agreement and the provisions of applicable Federal statutes, HUD mortgage insurance regulations, related HUD directives and administrative requirements, or HUD/FHA Loan Documents, the Federal statutes, HUD mortgage insurance regulations, related HUD directives and administrative requirements and HUD/FHA Loan Documents shall control, except for those HUD mortgage insurance regulations, related HUD directives or administrative requirements which have been waived in writing by HUD with respect to the HUD Project.
- R-2 Failure on the part of the Developer to comply with the covenants contained in the TIF Redevelopment Agreement shall not serve as a basis for default on any HUD-insured or HUD-held mortgage on the HUD Project. Additionally, and notwithstanding any term or condition to the contrary in the TIF Redevelopment Agreement, no failure on the part of the Developer or its successors or assigns to comply with the covenants in the Mortgage Note, the Mortgage, the HUD Regulatory Agreement, or any of the other HUD/FHA Loan Documents shall serve as a basis for the City, its successors or assigns, or any other party acting by or through the rights provided therein, to declare a default under the TIF Redevelopment Agreement or to exercise any other rights provided in the TIF Redevelopment Agreement, without the express written approval of the Mortgagee, or its successors and assigns to the Mortgage, and HUD.
- R-3 Compliance by the Developer with the provisions and covenants of the TIF Redevelopment Agreement and enforcement of the provisions and covenants contained in the TIF Redevelopment Agreement, including, but not limited to, any indemnification provisions or covenants, will not and shall not result in any claim or lien against the HUD Project, any asset of the HUD Project, the proceeds of the Mortgage, any reserve, or deposit required by HUD in connection with the Mortgage transaction or the rents or other income from the HUD Project, other than distributable "Surplus Cash" (as that term "Surplus Cash" is defined in the HUD Regulatory Agreement).

- R-4 No amendment to the TIF Redevelopment Agreement made after the date of the HUD initial endorsement of the Mortgage Note shall have any force or effect until and unless such amendment is approved in writing by HUD. No amendment made after the aforesaid date to any HUD/FHA Loan Document shall be binding upon the City unless the City has consented thereto in writing.
- R-5 Unless waived in writing by HUD with respect to the HUD Project, any action of the Developer which is prohibited or required by HUD pursuant to applicable Federal law, HUD regulations, HUD directives and administrative requirements or the HUD/FHA Loan Documents shall supersede any conflicting provision of the TIF Redevelopment Agreement, and the performance or failure to perform of the Developer in accordance with such laws, regulations, directives, administrative requirements or HUD/FHA Loan Documents shall not constitute an event of default under the TIF Redevelopment Agreement.
- R-6 So long as HUD is the insurer or holder of any mortgage on the HUD Project or any indebtedness secured by a mortgage on the HUD Project, Developer shall not and is not permitted to pay any amount required to be paid under the provisions of the TIF Redevelopment Agreement except from Surplus Cash, as such term is defined, and in accordance with the conditions prescribed in the HUD Regulatory Agreement unless specifically permitted in writing by HUD.
- R-7 In the event of the appointment by any court of any person, other than HUD or the Mortgagee, as a receiver, as a mortgagee or party in possession, or in the event of any enforcement of any assignment of leases, rents, issues, profits, or contracts contained in the TIF Redevelopment Agreement, with or without court action, no rents, revenue or other income of the HUD Project collected by the receiver, person in possession or person pursuing enforcement as aforesaid, shall be utilized for the payment of interest, principal or any other amount due and payable under the provisions of the TIF Redevelopment Agreement except from distributable Surplus Cash in accordance with the HUD Regulatory Agreement. The receiver, person in possession or person pursuing enforcement shall operate the HUD Project in accordance with all provisions of the HUD/FHA Loan Documents.
- R-8 A duplicate of each notice given, whether required or permitted to be given, under the provisions of the TIF Redevelopment Agreement shall also be given to:

U.S. Dept of Housing & Urban Development  
Office of Health Care Programs  
451 7<sup>th</sup> Street, SW  
Washington, DC 20410

With a copy to

U.S. Dept of Housing & Urban Development  
Office of Regional Counsel, Region V  
26<sup>th</sup> Floor  
77 West Jackson Blvd.  
Chicago, IL 60604

HUD may designate any further or different addresses for such duplicate notices.

- R-9 Notwithstanding anything in the TIF Redevelopment Agreement to the contrary, the Developer and its successors and assigns may sell, convey, transfer, lease, sublease or encumber the HUD Project or any part thereof provided it obtains the prior written consent of HUD to any such sale, conveyance, transfer, lease, sublease or encumbrance. The Developer may make application to HUD for approval of a Transfer of Physical Assets in accordance with HUD regulations, directives and policies. A duplicate copy of such application shall be served on the City. Within 90 days after such service, the City shall serve written notice of its approval of such transfer, or of its requirements for approval of such transfer, on HUD, the Mortgagee and the Developer. No such transfer shall occur or be effective until the City's requirements shall have been satisfied. In the event the City fails to serve such notice on HUD, the Mortgagee and the Developer within said time, then any consent by HUD to such transfer shall be conclusively deemed to be the City's prior written consent to such transfer and consummation of such transfer shall not be a default under the TIF Redevelopment Agreement.
- R-10 The Developer's covenants contained in the TIF Redevelopment Agreement which relate to the HUD Project and encumber the parcels legally described on Attachment 1 to this Rider (the "Developer Covenants") shall automatically terminate in the event of a foreclosure or deed in lieu of foreclosure of any mortgage insured or held by HUD with respect to the HUD Project, or any portion thereof. Upon such termination, the City shall furnish to HUD such releases of the Developer Covenants and other documentation as HUD shall deem necessary or convenient to confirm or evidence such termination.
- R-11 Notwithstanding anything in the TIF Redevelopment Agreement to the contrary, the provisions of this HUD-Required Provisions Rider are for the benefit of and are enforceable by HUD and the Mortgagee.

Executed as of this date set forth above.

MERCY HOSPITAL AND MEDICAL CENTER, an  
Illinois not-for-profit corporation

By:   
Name: Sister Sheila Lyne  
Its: President and CEO

CITY OF CHICAGO

By: \_\_\_\_\_  
Commissioner  
Department of Housing and Economic  
Development

HUD may designate any further or different addresses for such duplicate notices.

- R-9 Notwithstanding anything in the TIF Redevelopment Agreement to the contrary, the Developer and its successors and assigns may sell, convey, transfer, lease, sublease or encumber the HUD Project or any part thereof provided it obtains the prior written consent of HUD to any such sale, conveyance, transfer, lease, sublease or encumbrance. The Developer may make application to HUD for approval of a Transfer of Physical Assets in accordance with HUD regulations, directives and policies. A duplicate copy of such application shall be served on the City. Within 90 days after such service, the City shall serve written notice of its approval of such transfer, or of its requirements for approval of such transfer, on HUD, the Mortgagee and the Developer. No such transfer shall occur or be effective until the City's requirements shall have been satisfied. In the event the City fails to serve such notice on HUD, the Mortgagee and the Developer within said time, then any consent by HUD to such transfer shall be conclusively deemed to be the City's prior written consent to such transfer and consummation of such transfer shall not be a default under the TIF Redevelopment Agreement.
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- R-11 Notwithstanding anything in the TIF Redevelopment Agreement to the contrary, the provisions of this HUD-Required Provisions Rider are for the benefit of and are enforceable by HUD and the Mortgagee.

Executed as of this date set forth above.

MERCY HOSPITAL AND MEDICAL CENTER, an  
Illinois not-for-profit corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

CITY OF CHICAGO

By:  \_\_\_\_\_  
Andrew J. Mooney, Commissioner  
Department of Housing and Economic  
Development

## Attachment 1 to HUD-Required Provisions Rider

### Legal Description of parcels included in the HUD Project

#### Parcel 1:

Lots A, B and C in Mercy Hospital and Medical Center Redevelopment being a consolidation of Blocks 62, 63, 64, 68, 69, 76 and 77 and parts of Blocks 61, 65, 66, 67, 70, 75 and 78 and vacated streets and alleys, all in Canal Trustee's Subdivision of the West Half of Section 27, Township 39 North, Range 14, East of the Third Principal Meridian,

Except that part of Lot C lying East of a line, being the West line of Antonio's Subdivision according to the plat thereof recorded April 9, 2007 as document 0709906052, described as follows:

Commencing at a point on the South line of Lot C that is 701.50 feet West of the Southeast corner of Lot D in said subdivision, as measured along the South line of said Lots C and D; thence North 00 degrees 24 minutes 27 seconds East 150.00 feet; thence North 00 degrees 03 minutes 07 seconds East, 114.37 feet; thence Northeasterly 59.31 feet along the arc of a circle, having a radius of 60.33 feet, concave Southeasterly, and whose chord bears North 28 degrees 12 minutes 59 seconds East a distance of 56.95 feet; thence Northeasterly 59.26 feet along the arc of a circle, having a radius of 60.00 feet, concave Northwesterly, and whose chord bears North 28 degrees 05 minutes 07 seconds East a distance of 56.88 feet; thence North 00 degrees 12 minutes 36 seconds West, 84.94 feet; thence Northerly 18.02 feet along the arc of a circle, having a radius of 30.96 feet, concave Westerly, and whose chord bears North 16 degrees 53 minutes 19 seconds West a distance of 17.77 feet; thence Northwesterly 47.16 feet along the arc of a circle, having a radius of 74.72 feet, concave Southwesterly, and whose chord bears North 51 degrees, 38 minutes 52 seconds West a distance of 46.38 feet; thence Northwesterly 43.55 feet along the arc of a circle, having a radius of 35.84 feet, concave Northeasterly, and whose chord bears North 34 degrees 55 minutes 06 seconds West a distance of 40.92 feet; thence North 00 degrees 06 minutes 30 seconds West, 70.73 feet to the North line of said Lot C,

All in Cook County, Illinois.

#### Parcel 2:

The East Half of Block 60 (except the North Half of the Northeast Quarter of Block 60 and except that part taken for streets and alleys) and the East Half of Block 71 (except that part taken for streets and alleys) in Canal Trustees Subdivision of the West Half of Section 27, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Also

Lots 1, 2 and 3 in Assessor's Division of Block 74 in Canal Trustees Subdivision of the West Half of Section 27, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Also

Lots 1 to 9, inclusive, in O. P. Briggs Subdivision of the North Half of the Northeast Quarter of Block 60 in Canal Trustees Subdivision of the West Half of Section 27, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Common Street Address: 2525 South Michigan Avenue, Chicago, Illinois

PIN Numbers: 17-27-129-001-0000  
17-27-129-002-0000  
17-27-129-013-0000  
17-27-123-015-0000  
17-27-123-016-0000  
17-27-123-017-0000  
17-27-123-018-0000  
17-27-123-019-0000  
17-27-123-020-0000  
17-27-123-021-0000  
17-27-123-022-0000  
17-27-123-023-0000