

Agreed and Accepted:

\_\_\_\_\_  
Name

Title: \_\_\_\_\_

City of Chicago  
Department of Planning and Development

\_\_\_\_\_

DESIGNATION OF ASHLAND ARMS, INC. AS PROJECT DEVELOPER  
AND AUTHORIZATION FOR EXECUTION OF REDEVELOPMENT  
AGREEMENT FOR PROPERTY AT 6406 -- 6412  
NORTH CLARK STREET.

The Committee on Finance submitted the following report:

CHICAGO, October 6, 2005.

*To the President and Members of the City Council:*

Your Committee on Finance, having had under consideration an ordinance authorizing entering into and executing a redevelopment agreement with Ashland Arms, Inc., having had the same under advisement, begs leave to report and recommend that Your Honorable Body *Pass* the proposed ordinance transmitted herewith.

This recommendation was concurred in by a viva voce vote of the members of the Committee.

Respectfully submitted,  
(Signed) EDWARD M. BURKE,  
*Chairman.*

On motion of Alderman Burke, the said proposed ordinance transmitted with the foregoing committee report was *Passed* by yeas and nays as follows:

*Yeas* -- Aldermen Flores, Haithcock, Preckwinkle, Hairston, Lyle, Beavers, Stroger, Beale, Pope, Balcer, Olivo, Burke, T. Thomas, Coleman, L. Thomas, Murphy, Rugai, Troutman, Brookins, Muñoz, Zalewski, Chandler, Solis, Ocasio, Burnett, E. Smith, Carothers, Reboyras, Suarez, Matlak, Austin, Colón, Banks, Mitts, Allen, Laurino, O'Connor, Doherty, Natarus, Daley, Tunney, Levar, Shiller, Schulter, Moore, Stone -- 46.

*Nays* -- None.

Alderman Beavers moved to reconsider the foregoing vote. The motion was lost.

The following is said ordinance as passed:

WHEREAS, Pursuant to an ordinance adopted by the City Council ("City Council") of the City of Chicago (the "City") on September 29, 1999 and published at pages 11664 -- 11747 of the *Journal of the Proceedings of the City Council of the City of Chicago* (the "*Journal*") of such date, a certain redevelopment plan and project (the "Plan") for the Clark Street/Ridge Avenue Redevelopment Project Area (the "Area") was approved pursuant to the Illinois Tax Increment Allocation Redevelopment Act, as amended (65 ILCS 5/11-74.4-1, et seq.) (the "Act"); and

WHEREAS, Pursuant to an ordinance adopted by the City Council on September 29, 1999 and published at pages 11664 -- 11747 of the *Journal* of such date, the Area was designated as a redevelopment project area pursuant to the Act; and

WHEREAS, Pursuant to an ordinance (the "T.I.F. Ordinance") adopted by the City Council on September 29, 1999 and published at pages 35503 -- 35510 of the *Journal* of such date, tax increment allocation financing was adopted pursuant to the Act as a means of financing certain Area redevelopment project costs (as defined in the Act) incurred pursuant to the Plan; and

WHEREAS, Ashland Arms Inc., an Illinois corporation (the "Company"), is in the process of obtaining a three (3) story building (the "Site") at real property commonly known as 6406 -- 6412 North Clark Street (the "Property") located within the Area and shall rehabilitate the building in order to provide twenty (20) affordable housing units. In addition, the Company will rehab the building's commercial space and restore its facade (the "Project"); and

WHEREAS, The Company has proposed to undertake the redevelopment of the Site in accordance with the Plan and pursuant to the terms and conditions of a proposed redevelopment agreement to be executed by the Company and the City, including but not limited to rehabilitation and construction of the facilities to be financed in part by incremental taxes on the Property, if any, deposited in the Clark Street/Ridge Avenue Project Area Tax Allocation Fund (as defined in the T.I.F. Ordinance) pursuant to Section 5/11-74.4-8(b) of the Act to the extent, and in the amount, provided in the Redevelopment Agreement (hereinafter defined); and

WHEREAS, Pursuant to Resolution 05-CDC-62 adopted by the Community Development Commission of the City of Chicago (the "Commission") on June 14, 2005, the Commission authorized the City's Department of Planning and Development ("D.P.D.") to publish notice pursuant to Section 5/11-74.4(c) of the Act of its intention to negotiate a redevelopment agreement with the Company for the Project and to request alternative proposals for redevelopment of the Site or a portion thereof; and

WHEREAS, D.P.D. published the notice, requested alternative proposals for the redevelopment of the Site or a portion thereof and provided reasonable opportunity for other persons to submit alternative bids or proposals; and

WHEREAS, Since no other responsive proposals were received by D.P.D. for the redevelopment of the Site or a portion thereof within thirty (30) days after such publication, pursuant to Resolution 05-CDC-62, the Commission has recommended that the Company be designated as the developer for the Project and that D.P.D. be authorized to negotiate, execute and deliver on behalf of the City a redevelopment agreement with the Company for the Project; now, therefore,

*Be It Ordained by the City Council of the City of Chicago:*

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

SECTION 2. The Company is hereby designated as the developer for the Project pursuant to Section 5/11-74.4-4 of the Act.

SECTION 3. The Commissioner of D.P.D. (the "Commissioner") or a designee of the Commissioner are each hereby authorized, with the approval of the City's Corporation Counsel as to form and legality, to negotiate, execute and deliver a redevelopment agreement between the Company and the City substantially in the form attached hereto as Exhibit A and made a part hereof (the "Redevelopment Agreement"), and such other supporting documents as may be necessary to carry out and comply with the provisions of the Redevelopment Agreement, with such changes, deletions and insertions as shall be approved by the persons executing the Redevelopment Agreement.

SECTION 4. If any provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

SECTION 5. All ordinances, resolutions, motions or orders in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 6. This ordinance shall be in full force and effect immediately upon its passage.

Exhibit "A" referred to in this ordinance reads as follows:

*Exhibit "A".  
(To Ordinance)*

*Redevelopment Agreement*

*By And Among*

*The City Of Chicago*

*And*

*Ashland Arms, Inc.*

This Ashland Arms Inc. Redevelopment Agreement (this "**Agreement**") is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by and between the City of Chicago, an Illinois municipal corporation (the "**City**"), through its Department of Planning and Development ("**DPD**"), and Ashland Arms Inc., an Illinois 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 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 September 29, 1999: (1) "An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the Clark Street/Ridge Avenue Redevelopment Project Area;" (2) "An Ordinance of the City of Chicago, Illinois Designating the Clark Street/Ridge Avenue 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 Clark Street/Ridge Avenue 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 is in the process of acquiring a three-story building at 6406-12 North Clark Street, legally described in **Exhibit B** hereto (the "**Property**"). The Property is owned by Chicago Title Land Trust Company, Trust Number 1111851. David Guzik, a principal owner of the Developer, is the sole beneficiary of the land trust with power of direction. Mr. Guzik is in the process of conveying the Property from the land trust to the Developer. The building consists of approximately 11,000 square feet with three retail storefronts on the ground level and a 44-room single-room occupancy hotel on the second and third floors. Within the time frames set forth in **Section 3.01** hereof, the Developer shall commence and complete rehabilitation of the building to provide 20 affordable apartment units, consisting of 12 studios and 8 one-bedroom apartments, rehabilitate the commercial space and restore the facade of the building (the "**Facility**"). The "**Project**" shall mean, collectively, (a) the acquisition of the Property and (b) the Facility and related improvements (including but not limited to those TIF-Funded Improvements as defined below and set forth on **Exhibit C**). 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 Clark Street/Ridge Avenue Tax Increment Redevelopment Plan and Project (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 Available Incremental Taxes (as defined below) to reimburse the Developer or its Affiliate for the costs of TIF-Funded Improvements incurred by the Developer or its Affiliate pursuant to the terms and conditions of this Agreement; provided, however, that the Available Incremental Taxes disbursed to the Developer or its Affiliate for the costs of TIF-Funded Improvements.

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

## SECTION 1. RECITALS

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

## SECTION 2. DEFINITIONS

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

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

“**Affiliate**” when used to indicate a relationship with a specified 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.

“**Available Incremental Taxes**” shall mean an amount up to \$400,000 from the Incremental Taxes which have been received and deposited into the Clark Street/Ridge Avenue Redevelopment Project Area Special Tax Allocation Fund.

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

“**Change Order**” shall mean any amendment or modification to the Scope Drawings, Plans and Specifications or the Project Budget as described in Section 3.03, Section 3.04 and Section 3.05, respectively.

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

“**City 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.

“**Clark Street/Ridge Avenue Redevelopment Project Area Special Tax Allocation 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.

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

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

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

**“Covenant Period”** shall mean a period commencing on the date of the issuance of a Certificate and ending 10 years from that date.

**“DOH”** shall mean the City's Department of Housing.

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

**“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 (as defined below), including but not limited to Section 7-28-390, 7-28-440, 11-4-1410, 11-4-1420, 11-4-1450, 11-4-1500, 11-4-1530, 11-4-1550, or 11-4-1560.

**“Equity”** shall mean funds of the Developer (other than funds derived from Lender Financing) 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.

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

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

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

**“Governmental Charge”** shall have the meaning set forth in **Section 8.18(a)** 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.

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

**“Incremental Taxes”** shall mean such ad valorem taxes which, pursuant to the TIF Adoption Ordinance and Section 5/11-74.4-8(b) of the Act, are allocated to and when collected are paid to the Treasurer of the City of Chicago for deposit by the Treasurer into the Clark Street/Ridge Avenue Redevelopment Project Area Special Tax Allocation Fund established to pay Redevelopment Project Costs and obligations incurred in the payment thereof.

**“Indemnitees”** shall have the meaning set forth in **Section 13.01** hereof.

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

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

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

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

**“Minimum Assessed Value”** shall have the meaning set forth in **Section 8.18(c)** hereof.

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

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

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



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

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

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

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

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

**“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 K**, to be delivered by the Developer to DPD pursuant to **Section 4.04** of this Agreement.

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

**“Survey”** shall mean a Class A plat of survey in the most recently revised form of ALTA/ACSM urban survey of the Property dated within 60 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 the date on which the Redevelopment Area is no longer in effect (through and including September 29, 2022)

**“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 first American Title Insurance Company.

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

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

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

### SECTION 3. THE PROJECT

**3.01 The Project.** With respect to the Facility, the Developer shall, pursuant to the Plans and Specifications and subject to the provisions of **Section 18.16** hereof: (i) commence construction no later than November 1, 2005; and (ii) complete construction no later than August 1, 2006, unless Developer obtains prior approval from DPD to complete construction at a later date.

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

**3.03 Project Budget.** The Developer has furnished to DPD, and DPD has approved, a Project Budget showing total costs for the Project in an amount not less than Two Million Five

Hundred Fifty Thousand and no/100 Dollars (\$2,550,000). The Developer hereby certifies to the City that (a) Lender Financing and Equity described in Section 4.02 hereof, shall be sufficient to complete the Project; and (b) the Project Budget is true, correct and complete in all material respects. The Developer shall promptly deliver to DPD certified copies of any Change Orders with respect to the Project Budget for approval pursuant to Section 3.04 hereof.

**3.04 Change Orders.** Except as provided below, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to material changes to the Project must be submitted by the Developer to DPD; provided, that any Change Order relating to any of the following must be submitted by the Developer to DPD and must obtain DPD's prior approval (which approval shall not be unreasonably withheld or delayed): (a) a change in the use of the Property; (b) an increase or decrease of the square footage or in the number of residential units by more than 5%; (c) an increase or decrease by five percent (5%) or more of a line item in the Project Budget or the Project Budget as a whole. 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 prior approval (to the extent required in this section). The Construction Contract, and each contract between the General Contractor and any subcontractor, shall contain a provision to this effect. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds which the City has pledged pursuant to this Agreement or provide any other additional assistance to the Developer. Notwithstanding anything to the contrary in this Section 3.04, DPD shall be notified in writing of all Change Orders that do not require DPD prior approval pursuant to Section 3.07 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.** The Developer shall provide DPD with written monthly progress reports detailing the status of the Project, including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring the approval of DPD pursuant to Section 3.04). At completion, 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 hereunder.

**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 and are of general applicability to other property within the City.

#### SECTION 4. FINANCING

**4.01 Total Project Cost and Sources of Funds.** The cost of the Project is estimated to be \$2,550,000, to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

Equity (subject to <u>Sections 4.03(b) and 4.06</u> )	\$ 550,000
Lender Financing	<u>\$2,000,000</u>
TOTAL	\$2,550,000

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

**4.03 City Funds.**

(a) Uses of City Funds. City Funds may only be used to pay directly or reimburse the Developer and/or its Affiliate 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 the Certificate of Completion by DPD. If, at the time of payment there is not sufficient Available Incremental Taxes to reimburse the Developer, the City Funds shall be disbursed at such time that there is a sufficient amount.

(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 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	\$400,000

provided, however, that the total amount of City Funds expended for TIF-Funded Improvements shall be an amount not to exceed the lesser of Four Hundred Thousand and no/100 Dollars (\$400,000) or fifteen and six tenths percent (15.6%) of the actual total Project costs; and provided further, that the \$400,000 to be derived from Available Incremental Taxes shall be available to pay costs related to TIF-Funded Improvements and allocated by the City for that purpose only so long as the amount of the Available Incremental Taxes deposited into the Clark Street/Ridge Avenue Redevelopment Project Area Special Tax Allocation Fund shall be sufficient to pay for such costs.

The Developer acknowledges and agrees that the City's obligation to pay for TIF-Funded Improvements up to a maximum of \$400,000 is contingent upon the fulfillment of the conditions set forth 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.** At the time that City Funds are to be paid or reimbursed to the Developer as provided in **Section 4.03(a)**, the Developer shall provide DPD with a Requisition Form, along with the documentation described therein, not less than thirty (30) days before such payment is expected to be disbursed.

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

(a) **Prior Expenditures.** Only those expenditures made by the Developer with respect to the Project prior to the Closing Date, evidenced by documentation satisfactory to DPD and approved by DPD as satisfying costs covered in the Project Budget, shall be considered previously contributed Equity or Lender Financing hereunder (the "**Prior Expenditures**"). DPD shall have the right, in its sole discretion, to disallow any such expenditure as a Prior Expenditure. **Exhibit I** hereto sets forth the prior expenditures approved by DPD as of the date hereof as Prior Expenditures. Prior Expenditures made for items other than TIF-Funded Improvements shall not be reimbursed to the Developer, but shall reduce the amount of Equity and/or Lender Financing required to be contributed by the Developer pursuant to **Section 4.01** hereof.

(b) **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.

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

**4.06 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 the 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. City Funds shall not be paid to the Developer hereunder prior to the issuance of the Certificate by DPD. 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 amount paid or payable to, as applicable, the (1) source(s) who have provided funds for the Project and (2) General Contractor and/or subcontractors who have performed work on the Project, and/or their payees;

(b) the Developer has approved all work and materials for the disbursement request, and such work and materials conform to the Plans and Specifications;

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

(d) 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;

(e) 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

(f) 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, including but not limited to requirements set forth in the TIF Ordinances and this Agreement.

**4.08 Conditional Grant.** The City Funds being provided hereunder are being granted on a conditional basis, subject to the Developer's compliance with the provisions of this Agreement. The City Funds are subject to being reimbursed as provided in **Section 4.03** hereof.

## SECTION 5. CONDITIONS PRECEDENT

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

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

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

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

**5.04 Financing.** The Developer has furnished proof reasonably acceptable to the City that the Developer has Equity and Lender Financing in the amounts set forth in **Section 4.01** hereof to complete the Project and satisfy its obligations under this Agreement. If a portion of such funds consists of Lender Financing, the Developer has furnished proof as of the Closing Date that the proceeds thereof are available to be drawn upon by the Developer as needed and are sufficient (along with the Equity and 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 by a lender against the Property in existence at the Closing Date have been subordinated to those certain covenants running with the land in favor of the City referred to in **Section 7.02** pursuant to a Subordination Agreement, in substantially the form attached hereto as **Exhibit L**, executed on or prior to the Closing Date, which is to be recorded, at the expense of the Developer, with the Office of the Recorder of Deeds of Cook County.

**5.05 Acquisition and Title.** On the Closing Date, the Developer has furnished the City with a copy of the Title Policy for the Property, certified by the Title Company, showing the Developer as the named insured. The Title Policy is dated as of the Closing Date and contains only those title exceptions listed as Permitted Liens on **Exhibit G** hereto and evidences the recording of this Agreement pursuant to the provisions of **Section 8.17** 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.

**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 name of any Affiliate of the Developer expected to pay for TIF-Funded Improvements 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 shall provide documentation to DPD upon request by DPD, satisfactory in form and substance to DPD, with respect to current employment matters, if any.

**5.13 Environmental.** The Developer has provided DPD with copies of that certain Phase I environmental audit completed with respect to the Property and copies of the Phase II environmental audit with respect to the Property, if any. 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 & Affidavit.** The Developer has provided, as applicable: a certified copy of its Articles or Certificate of Incorporation containing the original certification of the Secretary of State of its state of incorporation; a certificate of good standing from the Secretary of State of its state of incorporation and the State of Illinois; 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 and Affidavit, in the City's then current form, dated as of the Closing Date.

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

## **SECTION 6. AGREEMENTS WITH CONTRACTORS**

**6.01 Bid Requirement for General Contractor and Subcontractors.** Prior to entering into an agreement 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 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 or the General Contractor selects any subcontractor submitting other than the lowest responsible bid for the TIF-Funded Improvements, the difference between the lowest responsible bid and the bid selected may not be paid out of City Funds. The Developer shall submit copies of the Construction Contract to DPD in accordance with **Section 6.02** below. Photocopies of all subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD within five (5) business days of the execution thereof. The Developer shall ensure that the General Contractor shall not (and shall cause the General Contractor to ensure that the subcontractors shall not) begin work on the Project until the Plans and Specifications have been approved by DPD and all requisite permits have been obtained.

**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 M** 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 8.08** (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 and DOH within five (5) business days of the execution thereof.

## SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION

**7.01 Certificate of Completion of Construction or Rehabilitation.** Upon completion of construction of the Project in accordance with the terms of this Agreement, and upon the Developer's written request, DPD shall issue to the Developer the Certificate in recordable form certifying that the Developer has fulfilled its obligation to complete the Project in accordance with the terms of this Agreement.

(a) The Certificate will not be issued until:

- (i) The Developer has notified the City in writing that the Project has been completed as defined in this Agreement; and
- (ii) The Developer has received a Certificate of Occupancy for all residential units and the retail space in the Facility or other evidence acceptable to DPD that the Developer has complied with building permit requirements; and
- (iii) The Developer has complied with its obligations under the terms of the affordable housing requirements for the Project as set forth in, but not limited to, **Section 8.19** of this Agreement; and
- (iv) The City's Monitoring and Compliance Unit has verified that the Developer is in full compliance with City requirements set forth in **Section 10** and **Section 8.08** (M/WBE, City Residency and Prevailing Wage) with respect to construction of the Project; and
- (v) The Developer has delivered copies of signed leases for all of the residential units in the facility to DPD; and
- (vi) The Developer has received verification from the DOH that all residential units are rented to households making 60% or less of the Area Median Income.

- (vii) The Developer has 75% of the retail space occupied; and
- (viii) There exists neither an Event of Default which is continuing nor a condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default.

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

Those covenants specifically described at **Sections 8.02, 8.19 and 8.20** 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

- (c) the right to seek reimbursement of the City Funds from the Developer; and
- (d) the right to exercise any remedy set forth in Section 15.02 hereof.

**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 applicable, as of the date of this Agreement and as of the date of each disbursement of City Funds hereunder, that:

(a) Developer is a duly organized Illinois corporation, 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 or partnership action, as applicable, and does not and will not violate its partnership agreement as amended and supplemented, as applicable, any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or document to which the Developer is now a party or by which the Developer is now or may become bound;

(d) unless otherwise permitted or not prohibited pursuant to or under the terms of this Agreement, the Developer shall acquire and shall maintain good, indefeasible and merchantable fee simple title to the Property (and all improvements thereon) free and clear of all liens (except for the Permitted Liens, Lender Financing as disclosed in the Project Budget and non-governmental charges that the Developer is contesting in good faith pursuant to **Section 8.14** hereof);

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

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

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

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

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

(j) the Developer shall not do any of the following without the prior written consent of DPD (not to be unreasonably withheld or delayed): (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) until the expiration of the Covenant Period; (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 that would materially adversely affect the ability of the Developer to complete the Project; or (5) enter into any transaction that would cause a material and detrimental change to the Developer's ability to undertake its obligations under this Agreement;

(k) the Developer has not incurred, and, prior to the issuance of a Certificate, shall not, without the prior written consent of the Commissioner of 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;

(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;

(m) if applicable, the Developer must comply with DOH's Affordable Green-Energy Efficiency Standards;

(n) 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 (n) 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 Certificate with respect thereto.

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

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

**8.05 TIF Bonds.** The Developer shall, at the request of the City, agree to any reasonable amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole discretion) TIF 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, provided, however, that any such amendments shall not have a material adverse effect on the Developer or the Project. The Developer shall, at the Developer's expense, cooperate and provide reasonable assistance in connection with the marketing of any such TIF bonds, including but not limited to providing written descriptions of the Project, making representations, providing information regarding its financial condition and assisting the City in preparing an offering statement with respect thereto.

**8.06 Employment Opportunity; Progress Reports.** The Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each subcontractor to abide by the terms set forth in **Section 10** hereof. During the Project, the Developer shall deliver to DOH monthly written progress reports detailing compliance with the

requirements of **Sections 8.08, 10.02 and 10.03** of this Agreement. If any such reports indicate a shortfall in compliance, the Developer shall also deliver a plan to DOH which shall outline, to DOH's satisfaction, the manner in which the Developer shall correct any shortfall.

**8.07 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.

**8.08 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 employees working in constructing the Project. 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 8.08**.

**8.09 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.

**8.10 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 or the Property.

**8.11 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.

**8.12 Financial Statements.** The Developer shall obtain and provide to DPD Financial Statements for the Developer's fiscal year ended 2003 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.



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

**8.14 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 8.14**); 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.

**8.15 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.

**8.16 Compliance with Laws.** To the best of the Developer's knowledge, after diligent inquiry, the Property and the Project are and shall be in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project and the Property, including but not limited to the Municipal Code of Chicago,

Section 7-28-390, 7-28-440, 11-4-1410, 11-4-1420, 11-4-1450, 11-4-1500, 11-4-1530, 11-4-1550, or 11-4-1560, whether or not in the performance of this Agreement. Upon the City's request, the Developer shall provide evidence satisfactory to the City of such compliance.

**8.17 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. Subject to the provisions of **Section 5.04** regarding subordination of liens, 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.

**8.18 Real Estate Provisions.**

(a) Governmental Charges.

(i) Payment of Governmental Charges. The Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon the Developer, the Property or the Project, or become due and payable, and which create a lien upon the Developer or all or any portion of the Property or the Project. "Governmental Charge" shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances (except for those assessed by foreign nations, states other than the State of Illinois, counties of the State other than Cook County, and municipalities other than the City) relating to the Developer, the Property or the Project including but not limited to real estate taxes.

(ii) Right to Contest. The Developer has the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of the Property. No such contest or objection shall be deemed or construed in any way as relieving, modifying or extending the Developer's covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless the Developer has given prior written notice to DPD of the Developer's intent to contest or object to a Governmental Charge and, unless, at DPD's sole option,

(A) the Developer shall demonstrate to DPD's satisfaction that legal proceedings instituted by the Developer contesting or objecting to a Governmental Charge shall conclusively operate to prevent or remove a lien against, or the sale or

forfeiture of, all or any part of the Property to satisfy such Governmental Charge prior to final determination of such proceedings; and/or

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

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

(c) Real Estate Taxes

(i) Acknowledgment of Real Estate Taxes. The Developer agrees that for the purpose of this Agreement, the total projected minimum assessed value of the Property ("**Minimum Assessed Value**") is shown on **Exhibit N** attached hereto and incorporated herein by reference for the years noted on **Exhibit N**.

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

(iii) No Reduction in Real Estate Taxes. Neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer shall, during the Term of this Agreement, directly or indirectly, initiate, seek or apply for proceedings in order to lower the assessed value of all or any portion of the Property or the Project below the amount of the Minimum Assessed Value as shown in **Exhibit N** for the applicable year.

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

(v) Covenants Running with the Land. The parties agree that the restrictions contained in this **Section 8.18(c)** are covenants running with the land and this Agreement shall be recorded by the Developer as a memorandum thereof, at the Developer's expense, with the Cook County Recorder of Deeds on the Closing Date. These restrictions shall be binding upon the Developer and its agents, representatives, lessees, successors, assigns and transferees from and after the date hereof, provided however, that the covenants shall be released when the Redevelopment Area is no longer in effect. The Developer agrees that any sale, lease, conveyance, or transfer of title to all or any portion of the Property or Redevelopment Area from and after the date hereof shall be made explicitly subject to such covenants and restrictions. Notwithstanding anything contained in this **Section 8.18(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 8.18(c)**.

**8.19 Affordable Housing Covenant.** The Developer agrees and covenants to the City that prior to any foreclosure of the Property by a lender providing Lender Financing, the provisions of this Affordable Housing Covenant shall govern the terms of the Developer's obligation to provide affordable housing. Following foreclosure, if any, and from the date of such foreclosure through the Term of the Agreement, the following provisions shall govern the terms of the obligation to provide affordable housing under this Agreement:

(a) The Facility (excluding the commercial space at ground level) shall be operated and maintained solely as residential rental housing for Low-Income and Very Low-Income Households (as defined below); and

(b) All of the units in the Facility shall be available for occupancy to and be occupied solely by one or more qualifying as Low-Income and Very Low-Income Households upon initial occupancy;

(c) As used in this **Section 8.19**, the following terms have the following meanings:

(i) "**Affordable Housing**" shall mean residential housing that, so long as the same is occupied by Low-Income Households or Very Low-Income Households, requires payment

of monthly housing costs, including utilities other than telephone, of no more than 30% of the maximum allowable income as stated for such households.

(ii) "**Low-Income Household**" shall mean a single person, family or unrelated persons living together whose adjusted income is not more than 60% of the median income of the area of residence, adjusted for family size, as such adjusted income and median income for the area are determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937.

(iii) "**Very Low-Income Household**" shall mean a single person, family or unrelated persons living together whose adjusted income is not more than 50% of the median income of the area of residence, adjusted for family size, as such adjusted income and median income for the area are determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937.

(d) The covenants set forth in this **Section 8.19** shall run with the land and be binding upon any transferee.

(e) The City and the Developer may enter into a separate agreement to ensure that for a period of thirty (30) years, 20% of such Affordable Housing, and for a period of fifteen (15) years, 80% of such Affordable Housing, will remain affordable to and be rented to Low- and Very Low-Income Households. and to implement the provisions of this **Section 8.19**.

(f) Developer must provide rent rolls to the Compliance and Monitoring Section of the City's Department of Housing on an annual basis. These documents must be received no later than February 1<sup>st</sup> of each year for the preceding calendar year.

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

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

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

**9.02 Survival of Covenants.** All warranties, representations, and covenants of the City contained in this **Section 9** or elsewhere in this Agreement shall be true, accurate, and complete at

the time of the City's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and be in effect throughout the Term of the Agreement.

## SECTION 10. DEVELOPER'S EMPLOYMENT OBLIGATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



**10.03. 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 agrees to indemnify, defend and hold the City harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of the Developer: (i) the presence of any Hazardous Material on or under, or the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Material from all or any portion of the Property, whether or not in violation of the terms of any NFRL applicable to the Property, or any portion thereof, 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, whether or not arising from a violation of any of the terms of any NFRL applicable to the Property, or any portion thereof.

## SECTION 12. INSURANCE

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

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

(i) Workers Compensation and Employers Liability Insurance

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

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

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

(b) Construction

(i) Workers Compensation and Employers Liability Insurance

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

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

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

(iii) Automobile Liability Insurance (Primary and Umbrella)

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

(iv) Railroad Protective Liability Insurance

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

(v) Builders Risk Insurance

When the Contractor undertakes any construction, including improvements, betterments, and/or repairs, the Contractor shall provide, or cause to be provided All Risk Builders Risk Insurance at replacement cost for materials,

supplies, equipment, machinery and fixtures that are or will be part of the permanent facility. Coverages shall include but are not limited to the following: collapse, boiler and machinery if applicable. The City of Chicago shall be named as an additional insured and loss payee.

(vi) Professional Liability

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

(vii) Valuable Papers Insurance

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

(viii) Contractor's Pollution Liability

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

(c) Term of the Agreement

- (i) Prior to the execution and delivery of this Agreement and during construction of the Project, All Risk Property Insurance in the amount of the full replacement value of the Property. The City of Chicago is to be named an additional insured on a primary, non-contributory basis.
- (ii) Post-construction, throughout the Term of the Agreement, All Risk Property Insurance, including improvements and betterments in the amount of full

replacement value of the Property. Coverage extensions shall include business interruption/loss of rents, flood and boiler and machinery, if applicable. The City of Chicago is to be named an additional insured on a primary, non-contributory basis.

(d) Other Requirements

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

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

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

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

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

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

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

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

subcontractors. All General Contractors and subcontractors shall be subject to the same requirements (Section (d)) of Developer unless otherwise specified herein.

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

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

### SECTION 13. INDEMNIFICATION

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

- (i) the Developer’s failure to comply with any of the terms, covenants and conditions contained within this Agreement; or
- (ii) the Developer’s or any contractor’s failure to pay General Contractors, subcontractors or materialmen in connection with the TIF-Funded Improvements or any other Project improvement; or
- (iii) the existence of any material misrepresentation or omission in this Agreement, any offering memorandum or information statement or the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by the Developer or any Affiliate Developer or any agents, employees, contractors or persons acting under the control or at the request of the Developer or any Affiliate of Developer; or
- (iv) the Developer’s failure to cure any misrepresentation in this Agreement or any other agreement relating hereto;

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

of the undertakings and indemnification set out in this **Section 13.01** shall survive the termination of this Agreement.

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

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

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

#### **SECTION 15. DEFAULT AND REMEDIES**

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

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

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

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

(d) except as otherwise permitted hereunder, the creation (whether voluntary or involuntary) of, or any attempt to create, any lien or other encumbrance upon the Property, including any fixtures



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

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

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

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

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

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

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

(k) prior to the termination of the Term of the Agreement, the sale or transfer of all of the ownership interests of the Developer without the prior written consent of the City, except for transfers of limited partnership interests in Near North made in accordance with its partnership agreement, and transfers of general partner interest in Near North to a limited partner made in accordance with its partnership agreement; or

(l) Developer's failure to operate and maintain the Project as an affordable rental development.

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

**15.02 Remedies.** Upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements, and may suspend disbursement of City Funds and may require the Developer to repay any City funds that it has received. If the City demands repayment as a remedy for default, repayment of the TIF assistance will be on a 10 year pro-rated basis. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to injunctive relief or the specific performance of the agreements contained herein.

**15.03 Curative Period.** In the event the Developer shall fail to perform a monetary covenant which the Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the Developer has failed to perform such monetary covenant within ten (10) days of its receipt of a written notice from the City specifying that it has failed to perform such monetary covenant. In the event the Developer shall fail to perform a non-monetary covenant which the Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the Developer has failed to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, the Developer shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured; provided, further, that there shall be no cure period under this Section 15.03 with respect to the Developer's failure to comply with the requirements for which other specific cure periods are set forth in other sections of this Agreement.

## 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 18.14** 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 18.14** 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. After the issuance by the City to the Developer of a Certificate pursuant to Section 7 hereof, Developer shall notify the City of any New Mortgage executed with respect to the Property or any portion thereof.

#### SECTION 17. NOTICE

Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) telecopy or facsimile; (c) overnight courier, or (d) registered or certified mail, return receipt requested.

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

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

If to the Developer: Ashland Arms Inc.  
6406 N. Clark  
Chicago, Illinois 60626

With Copies To: Ira Kaufman  
566 W. Lake Street, Suite 410  
Chicago, Illinois 60661

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

#### SECTION 18. MISCELLANEOUS

**18.01 Amendment.** This Agreement and the Exhibits attached hereto may not be amended or modified without the prior written consent of the parties hereto; provided, however, that the City, in its sole discretion, may amend, modify or supplement **Exhibit D** hereto without the consent of any party hereto. It is agreed that no material amendment or change to this Agreement shall be made or be effective unless ratified or authorized by an ordinance duly adopted by the City Council. The term "**material**" for the purpose of this **Section 18.01** shall be defined as any deviation from the terms of the Agreement which operates to cancel or otherwise reduce any developmental, 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, such ordinance(s) shall prevail and control.

**18.12 Governing Law.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of Illinois, without regard to its conflicts of law principles.

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

**18.14 Approval.** Wherever this Agreement provides for the approval or consent of the City, DPD, the Commissioner of DPD or DOH, or any matter is to be to the City's, DPD's, the Commissioner of DPD's or DOH's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City, DPD, the Commissioner of DPD or DOH in writing and in the reasonable discretion thereof. The Commissioner of DPD 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 8.18** (Real Estate Provisions), **8.19** (Affordable Housing Covenant) and **8.20** (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.

**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.

**ASHLAND ARMS INC.,**  
an Illinois corporation

**CITY OF CHICAGO**

By: \_\_\_\_\_

By: \_\_\_\_\_

Its:    President

Denise Casalino,  
Commissioner, Department of Planning  
and Development

STATE OF ILLINOIS   )  
  ) ss  
COUNTY OF COOK    )

I, \_\_\_\_\_, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ of Ashland Arms Inc., an Illinois corporation (the "**Developer**"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the Board of Directors of the Developer, as his/her free and voluntary act and as the free and voluntary act of the Developer, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this \_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

(SEAL)



STATE OF ILLINOIS )  
 ) ss  
COUNTY OF COOK )

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

GIVEN under my hand and official seal this \_\_\_th day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

[(Sub)Exhibits "D", "E", "F", "I", "M", "N" and "O" referred to in this Redevelopment Agreement with Ashland Arms, Inc. unavailable at time of printing.]

(Sub)Exhibits "A", "B", "C", "G", "H-1", "H-2", "J", "K" and "L" referred to in this Redevelopment Agreement with Ashland Arms, Inc. read as follows:

*(Sub)Exhibit "A".*  
(To Redevelopment Agreement With  
Ashland Arms, Inc.)

*Redevelopment Area.*

*Legal Description Of The Area.*

*Boundary Description*  
*Clark Street And Ridge Avenue R.P.A.*

That part of the east half of Section 31 and the west half of Section 32, Township 41 North, Range 14 East of the Third Principal Meridian and that part of the west half of Section 5, the east half of Section 6 and the west half of Section 8, Township 40 North, Range 14 East of the Third Principal Meridian, all in the City of Chicago, Cook County, Illinois, described as follows:

beginning at the intersection of the east right-of-way line of North Clark Street and the north right-of-way line of West Pratt Avenue; thence east along the north right-of-way line of said West Pratt Avenue to the north extension of the east line of a public alley adjoining Lots 9 through 17 and Lots 33 and 34 in Mann's Addition to Rogers Park; thence south along said extension and said east alley line to the intersection of the south line of said Mann's Addition and the east line of a public alley adjoining Lots 11 through 15 and Lot 18 in Block 1 of William L. Wallen's Addition to Rogers Park; thence south along said east alley line to the north right-of-way line of North Shore Avenue; thence south to the intersection of the south right-of-way line of North Shore Avenue and the east line of a public alley adjoining Lots 18 through 28 in Block 5 of said Wallen's Addition; thence south along said east alley line to the north right-of-way line of West Wallen Avenue; thence south to the intersection of the south right-of-way line of West Wallen Avenue with the east line of a public alley adjoining Lots 13 through 23 in Block 6 of said Wallen's Addition; thence south along said east alley line to the north right-of-way line of West Albion Avenue and the east line of a public alley adjoining Lots 1 through 5 in Block 1 of Gallup & Schlesswohl's Addition to Rogers Park; thence south along said east alley line to the intersection of the south line of said block with the east line of a public alley running south and east through Block 1 of Becker's Addition to Rogers Park; thence south along said east alley line to an angle point in said alley; thence east along the north line of said alley and its east extension to the east right-of-way line of North Ashland Avenue; thence south along said east right-of-way line to the north right-of-way line of West Arthur Avenue; thence east along said north right-of-way line to the north extension of the east line of a public alley adjoining Lots 44 through 51 in Hollesen Subdivision; thence south along

said extension and said east alley line to the north right-of-way line of West Schreiber Avenue; thence east along said north right-of-way line to the east right-of-way line of North Bosworth Avenue; thence south along said east right-of-way line and its south extension to the east extension of the north line of Lots 3 through 7 in S. F. Hollesen's First Addition to Rogers Park; thence west along said extension and said north line to the west line of a public alley adjoining Lot 5 in a subdivision of Lot 2 in said Hollesen's First Addition; thence north along said west alley line to the south right-of-way line of West Schreiber Avenue; thence west along said south right-of-way line to the east right-of-way line of North Clark Street; thence south along said east right-of-way line to the north right-of-way line of West Devon Avenue; thence east along said north right-of-way line to the north extension of the east line of a public alley adjoining Lots 49, 59 and 139 in Farson's Subdivision; thence south along said extension and said east alley line to the north line of a public alley adjoining Lots 114 through 122 in Edgewater Park; thence east along said north alley line to the north extension of the east line of a public alley adjoining said Lot 122; thence south along said east alley line to the north right-of-way line of West Rosemont Avenue; thence east along said north right-of-way line to the north extension of the east line of Lot 106 in said Edgewater Park; thence south along said extension, said east line and its south extension to the south line of a public alley adjoining Lots 90 through 97 in said Edgewater Park; thence west along said south alley line to the east line of a public alley adjoining said Lot 97; thence south along said east alley line to the north right-of-way line of West Thome Avenue; thence east along said north right-of-way line to the east right-of-way line of North Greenview Avenue; thence south along said east right-of-way line to the south right-of-way line of West Granville Avenue; thence west along said south right-of-way line to the east line of Lot 36 in Kransz's First Addition to Edgewater; thence south along said east lot line to the southeast corner of said lot; thence south to the northeast corner of Lot 45 in said First Addition; thence south along the east line of said lot to the southeast corner thereof; thence south to the northeast corner of Lot 116 in said First Addition; thence south along the east line of said lot to the southeast corner thereof; thence south to the northeast corner of Lot 125 in said First Addition; thence south along the east line of said lot and its south extension to the south right-of-way line of West Glenlake Avenue; thence west along said south right-of-way line to the east line of Lot 37 in Kransz's Second Addition to Edgewater; thence south along said east line to the southeast corner of said Lot 37; thence south to the northeast corner of Lot 44 in said Second Addition; thence south along the east line of said lot to the north right-of-way line of West Norwood Avenue; thence east along said north right-of-way line to the north extension of the east line of Lot 116 in said Second Addition; thence south along said extension and said east line to the southeast corner of said lot; thence south to the northeast corner of Lot 125 in said Second Addition; thence south along the east line of said lot to the north right-of-way line of West Elmdale Avenue; thence east along said north right-of-way line to the east right-of-way line of North Greenview Avenue; thence south along said east right-of-way line to the

east extension of the south line of a public alley adjoining Lots 24 through 38 in Nargreth Kransz Trustee's Addition to North Edgewater; thence west along said extension and said south alley line to the east line of a public alley adjoining said Lot 24; thence south along said east alley line to the north right-of-way line of West Thorndale Avenue; thence east along said north right-of-way line to the north extension of the west line of Lot 49 in said Trustee's Addition; thence south along said extension and said west line to the southwest corner of said lot; thence southeast to the southeast corner of Lot 48 in said Trustee's Addition; thence north along the east line of said lot and its north extension to the north right-of-way line of West Thorndale Avenue; thence east along said north right-of-way line to the north extension of the west line of Lot 43 in said Trustee's Addition; thence south along said extension and said west line to the southwest corner of said lot; thence east to the southeast corner of Lot 42 in said Trustee's Addition; thence north along the east line of said lot and its north extension to the north right-of-way line of West Thorndale Avenue; thence east along said north right-of-way line to the east right-of-way line of North Glenwood Avenue; thence south along said east right-of-way line to the south right-of-way line of West Ardmore Avenue; thence west along said south right-of-way line to the southwest right-of-way line of North Ridge Avenue; thence northwest along said southwest right-of-way line to the northwest line of Lot 3 in Henry P. Kransz's Resubdivision; thence southwest along said northwest line to the northwest corner of Lot 4 in said resubdivision; thence south along the west line of said lot and its south extension to the south right-of-way line of West Ardmore Avenue; thence west along said south right-of-way line to the east line of a public alley adjoining Ramus & Petersen's Subdivision and Katherine Hansen's Addition to Chicago; thence south along said east alley line and its south extension to the south right-of-way line of West Victoria Street; thence west along said south right-of-way line to the east line of a public alley adjoining Lots 41 through 49 and Lots 120 through 128 in Clark Street Addition to Edgewater; thence south along said east alley line and its south extension to the south right-of-way line of West Hollywood Avenue; thence west along said south right-of-way line to the east line of a public alley through Blocks 1 and 2 of West Bryn Mawr Addition to Edgewater; thence south along said east alley line to the north right-of-way line of West Bryn Mawr Avenue; thence south to the northwest corner of Lot 4 in the resubdivision of Lots 8 and 9 of a division of the north 10 acres; thence south along the west line of said Lot 4 to the south line of said resubdivision; thence west along said south subdivision line to a line 117 feet east of the southwest corner of said resubdivision; thence southeast to the south line of Lot 10 in said north 10 acre division, 124 feet distant from the southwest corner of said Lot 10; thence east along said south line to the northwest corner of the east 206 feet of Lots 11 through 14 of said north 10 acre division; thence south along the west line of said east 206 feet to the south right-of-way line of Gregory Street; thence west along said south right-of-way line and its west extension to the west right-of-way line of Clark Street; thence north along said west right-of-way line to the south line of Lot 15 in said north 10 acre division; thence west along said south line to the northwest corner of Lot 1 in the

resubdivision of Lots 16 and 17 of said north 10 acre division; thence south along the west line of said Lot 1 and the west line of Lots 2 and 3 in said subdivision to the south line of said resubdivision of Lots 16 and 17; thence west along said south line and its west extension to the west right-of-way line of Ashland Avenue; thence north along said west right-of-way line to its intersection with the west right-of-way line of Clark Street; thence north along the west right-of-way line of Clark Street to the south line of Lot 7 in Block 7 of Barret & Galloway's Resubdivision of Blocks 7, 8 and 9; thence west along said south line and its west extension to the south extension of the west line of a private street in said Block 7; thence north along said extension, said west line and its north extension to the north line of the north alley in said Block 7; thence east along said north alley line to the west line of an alley adjoining Lot 24 in said Block 7; thence north along said west alley line to the south right-of-way line of Thorndale Avenue; thence north to the intersection of the north right-of-way line of Thorndale Avenue and the west line of a public alley adjoining Lots 1 through 15 in Buena Vista Addition to Chicago and Lots 1 through 8 in Blesins & Franze's Resubdivision of sundry lots; thence north and northwest along said west alley line and its northwest extension to the northwest right-of-way line of North Paulina Street; thence northeast along said northwest right-of-way line to the southwest right-of-way line of Ridge Avenue; thence northwest along said southwest right-of-way line to the south right-of-way line of Peterson Avenue; thence west along said south right-of-way line to the south extension of the west line of Lot 6 in Barbara Everts' Addition to High Ridge; thence north along said extension and said west line to the north line of the south 164.5 feet of Lots 4 through 6 in said Barbara Everts' Addition; thence east along said north line to the east line of said Lot 4; thence south along said east line to the northwest corner of Lot 3 in said Barbara Everts' Addition; thence east along the north line of said lot and its east extension to the east right-of-way line of Damen Avenue; thence south along said east right-of-way line to the north line of Lot 34 in Becker's Resubdivision of part of High Ridge Subdivision; thence east along said north line to the west line of a public alley adjoining said lot; thence north along said west alley line to the west extension of the south line of the north 1 foot of Lot 24 in said Becker's Resubdivision; thence east along said extension and said south line to the west right-of-way line of Winchester Avenue; thence east to the northwest corner of Lot 19 in said Becker's Resubdivision; thence east along the north line of said lot to the west line of a public alley adjoining said lot; thence south along said west alley line to the west extension of the north line of Lot 9 in said Becker's Resubdivision; thence east along said west extension and said north line to the west right-of-way line of Wolcott Avenue; thence north along said west right-of-way line to the west extension of the north line of Lot 5 in said Becker's Resubdivision; thence east along said west extension and said north line to the west line of a public alley adjoining said lot; thence north along said west alley line to the west extension of the north line of the south 64.97 feet of Lot 2 in Block 29 of High Ridge Subdivision; thence east along said north line to the west right-of-way line of North Ravenswood Avenue; thence north along said west right-of-way line to

the centerline of West Granville Avenue; thence east along said centerline to the east right-of-way line of North Ravenswood Avenue; thence south along said east right-of-way line to the north line of a public alley adjoining Lot 8 in Block 22 of High Ridge Subdivision; thence east along said north alley line to the north extension of the east line of a public alley adjoining Lots 10 and 11 in said Block 22, Lot 3 in Weber and Krantz Subdivision and Lots 1 through 20 in Block 3 of Keinper's High Ridge Subdivision; thence south along said extension and said east alley line to an angle point; thence southeast along said east alley line and its southeast extension to the east right-of-way line of North Hermitage Avenue; thence south along said east right-of-way line to the southwest corner of Lot 37 in Block 2 of Kemper's High Ridge Subdivision; thence east along the south line of said lot and its east extension to the east line of a public alley adjoining Lots 1 through 21 in said Block 2; thence south along said east alley line to an angle point; thence southeast along said east alley line and its southeast extension to the east right-of-way line of North Paulina Street; thence south to the north line of Lot 10 in Baer's Addition to Chicago; thence east along the north line of said lot to the west line of a public alley adjoining said lot; thence north along said west alley line to the north line of a public alley adjoining Lot 6 in said Baers Addition; thence east along said north alley line to the west line of a public alley adjoining Lots 1 through 6 in said subdivision; thence north along said west alley line to the south line of Rosehill Cemetery Company's Subdivision; thence west along said south line to the east line of the west 188 feet of said subdivision; thence north along said west line to the south line of G. L. Drollinger's Resubdivision; thence east along said south line to the southeast corner of said resubdivision; thence north along the east line of said resubdivision to the northeast corner thereof; thence west along the north line of said resubdivision to the west line of the east 125 feet of Rosehill Cemetery Company's Subdivision; thence north along said west line to the south right-of-way line of West Glenlake Avenue; thence west along said south right-of-way line to the east right-of-way line of North Paulina Street; thence north along said east right-of-way line to the north right-of-way line of West Glenlake Avenue; thence east along said north right-of-way line to the west line of a public alley adjoining Lots 10 through 14 in a resubdivision of part of said Rosehill Subdivision; and Lots 11 through 19 in Donovan and Others' Resubdivision of part of said Rosehill Subdivision; thence north along said west alley line and its north extension to the west extension of the north line of the south 106.32 feet of Lots 6 and 7 in said Donovan Resubdivision; thence east along said north line to the west line of a public alley adjoining said Lot 6 in said Donovan Resubdivision; thence north along said west alley line to the south right-of-way line of West Granville Avenue; thence west along said south right-of-way line to the south extension of the west line of a public alley through Block 13 of High Ridge Subdivision; thence north along said extension, said west line and its north extension to the north right-of-way line of West Thome Avenue; thence east along said north right-of-way line to the west line of a public alley through A. L. Williams Resubdivision and through L. R. Priests' Resubdivision; thence north along said west alley line to the south right-of-way line of Highland

Avenue; thence west along said south right-of-way line to the south extension of the west line of a public alley adjoining Lots 1 through 14 in the resubdivision of Lot 1 in Block 1 of High Ridge Subdivision; thence north along said extension and said west line to the south right-of-way line of Devon Avenue; thence west along said south right-of-way line to the south extension of the west line of a public alley adjoining Lots 30 through 37 in Schrieber's Resubdivision; thence north along said extension and said west alley line to the south right-of-way line of Schrieber Avenue; thence west along said south right-of-way line and its west extension to the east Metra right-of-way line; thence north along said east Metra right-of-way line to the west extension of the north line of a public alley adjoining Lots 9 through 34 in Block 3 of Becker's Addition to Rogers Park; thence east along said extension and said north alley line to the west line of a public alley adjoining Lot 9 in said Block 3; thence north along said west alley line to the south right-of-way line of Arthur Avenue; thence west along said south right-of-way line to the south extension of the west line of a public alley running through Block 2 of said Becker's Addition and through Block 2 of Gallup & Schlesswohl's Addition to Rogers Park; thence north along said extension and said west alley line to the south right-of-way line of Albion Avenue; thence north to the intersection of the north right-of-way line of Albion Avenue and the west line of a public alley running through Blocks 2, 4 and 7 of William L. Wallen's Addition to Rogers Park; thence north along said west alley line to its intersection with the west line of a public alley running through that part of Lot 1 of the Assessor's Division lying between Clark Street and Hermitage Avenue; thence north along said west alley line and its north extension to the north right-of-way line of Pratt Avenue; thence east along said north right-of-way line to the point of beginning.

*(Sub)Exhibit "B".*  
(To Redevelopment Agreement  
With Ashland Arms, Inc.)

*Legal Description.*  
(6406 -- 6412 North Clark Street)

Lot 35 and the north 13.80 feet of Lot 36 in Schrieber's Subdivision of that part of Lots 2, 3, 4 and 5 of Circuit Partition of the south half of the south half of the southeast quarter of Section 31, Township 41 North, Range 14 East of the Third Principal Meridian, lying between the northwestern Railroad right-of-way and Clark Street in Cook County, Illinois.

*(Sub)Exhibit "C".*  
(To Redevelopment Agreement  
With Ashland Arms, Inc.)

*T.I.F.-Funded Improvements.*

Environmental	\$ 40,000
Rehabilitation	<u>1,085,000</u>
 TOTAL ELIGIBLE COSTS:	 \$1,125,000*

*(Sub)Exhibit "G".*  
(To Redevelopment Agreement  
With Ashland Arms, Inc.)

*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:

[To be completed by Developer's counsel, subject to City approval.]

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\* The maximum amount of City Funds provided to the Developer shall not exceed Four Hundred Thousand Dollars (\$400,000).



*(Sub)Exhibit "H-1".*  
 (To Redevelopment Agreement  
 With Ashland Arms, Inc.)

*Project Budget.*

Land Acquisition	\$1,100,000
Environmental	40,000
Building Construction/ Rehabilitation	1,085,000
Soft Costs	204,300
Project Contingency	<u>120,700</u>
 TOTAL:	 \$2,550,000

*(Sub)Exhibit "H-2".*  
 (To Redevelopment Agreement  
 With Ashland Arms, Inc.)

*Ashland Arms Project Budget --  
 M.B.E./W.B.E. Eligible Costs.*

Hard Costs:

Rehabilitation of Existing Structures (including contingency)	\$1,205,700.00
Total:	\$1,205,700.00

Soft Costs:

Professional Management Fees	\$ 82,000.00
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Professional Fees (architecture,  
engineering T.I.F., legal, et cetera) \$ 213,000.00

Total: \$ 295,000.00

Site and Acquisition Costs

Demolition and Environmental  
Remediation \$ 40,000.00

TOTAL M.B.E./W.B.E. ELIGIBLE COSTS \$1,540,700.00

Minimum Contract Amount to M.B.E.  
Contractors (24%) \$ 369,768.00

Minimum Contract Amount to W.B.E.  
Contractors (4%) \$ 61,628.00

The above M.B.E./W.B.E. dollar values are an estimate. If the actual costs of the above applicable M.B.E./W.B.E. activities increase, the associated M.B.E./W.B.E. dollar value will increase accordingly.

*(Sub)Exhibit "J".*  
(To Redevelopment Agreement  
With Ashland Arms, Inc.)

*Opinion Of Developer's Counsel.*

[To Be Retyped On The Developer's Counsel's Letterhead]

City of Chicago  
121 North LaSalle Street  
Chicago, Illinois 60602

Attention: Corporation Counsel

Ladies and Gentlemen:

We have acted as counsel to \_\_\_\_\_, an [Illinois] \_\_\_\_\_

(the "Developer"), in connection with the purchase of certain land and the construction of certain facilities thereon located in the \_\_\_\_\_  
Redevelopment Project Area (the "Project"). In that capacity, we have examined, among other things, the following agreements, instruments and documents of even date herewith, hereinafter referred to as the "Documents":

(a) \_\_\_\_\_ Redevelopment Agreement (the "Agreement") of even date herewith, executed by the Developer and the City of Chicago (the "City");

[(b) the Escrow Agreement of even date herewith executed by the Developer and the City;]

(c) [insert other documents including but not limited to documents related to purchase and financing of the Property and all lender financing related to the Project]; and

(d) all other agreements, instruments and documents executed in connection with the foregoing.

In addition to the foregoing, we have examined:

(a) the original or certified, conformed or photostatic copies of the Developer's (i) Articles of Incorporation, as amended to date, (ii) qualifications to do business and certificates of good standing in all states in which the Developer is qualified to do business, (iii) Bylaws, as amended to date, and (iv) records of all corporate proceedings relating to the Project [revise if the Developer is not a corporation]; and

(b) such other documents, records and legal matters as we have deemed necessary or relevant for purposes of issuing the opinions hereinafter expressed.

In all such examinations, we have assumed the genuineness of all signatures (other than those of the Developer), the authenticity of documents submitted to us as originals and conformity to the originals of all documents submitted to us as certified, conformed or photostatic copies.

Based on the foregoing, it is our opinion that:

1. The Developer is a corporation duly organized, validly existing and in good standing under the laws of its state of [incorporation] [organization], has full power and authority to own and lease its properties and to carry on its business as

presently conducted, and is in good standing and duly qualified to do business as a foreign [corporation] [entity] under the laws of every state in which the conduct of its affairs or the ownership of its assets requires such qualification, except for those states in which its failure to qualify to do business would not have a material adverse effect on it or its business.

2. The Developer has full right, power and authority to execute and deliver the Documents to which it is a party and to perform its obligations thereunder. Such execution, delivery and performance will not conflict with, or result in a breach of, the Developer's [Articles of Incorporation or Bylaws] [describe any formation documents if the Developer is not a corporation] or result in a breach or other violation of any of the terms, conditions or provisions of any law or regulation, order, writ, injunction or decree of any court, government or regulatory authority, or, to the best of our knowledge after diligent inquiry, any of the terms, conditions or provisions of any agreement, instrument or document to which the Developer is a party or by which the Developer or its properties is bound. To the best of our knowledge after diligent inquiry, such execution, delivery and performance will not constitute grounds for acceleration of the maturity of any agreement, indenture, undertaking or other instrument to which the Developer is a party or by which it or any of its property may be bound, or result in the creation or imposition of (or the obligation to create or impose) any lien, charge or encumbrance on, or security interest in, any of its property pursuant to the provisions of any of the foregoing, other than liens or security interests in favor of the lender providing Lender Financing (as defined in the Agreement).

3. The execution and delivery of each Document and the performance of the transactions contemplated thereby have been duly authorized and approved by all requisite action on the part of the Developer.

4. Each of the Documents to which the Developer is a party has been duly executed and delivered by a duly authorized officer of the Developer, and each such Document constitutes the legal, valid and binding obligation of the Developer, enforceable in accordance with its terms, except as limited by applicable bankruptcy, reorganization, insolvency or similar laws affecting the enforcement of creditors' rights generally.

5. (Sub)Exhibit A attached hereto (a) identifies each class of capital stock of the Developer, (b) sets forth the number of issued and authorized shares of each such class, and (c) identifies the record owners of shares of each class of capital stock of the Developer and the number of shares held of record by each such holder. To the best of our knowledge after diligent inquiry, except as set forth on (Sub)Exhibit A there are no warrants, options, rights or commitments of purchase, conversion, call or exchange or other rights or restrictions with respect to any of the capital stock of the Developer. Each outstanding share of the capital stock of the Developer is duly authorized, validly issued, fully paid and nonassessable.

6. To the best of our knowledge after diligent inquiry, no judgments are outstanding against the Developer, nor is there now pending or threatened, any litigation, contested claim or governmental proceeding by or against the Developer or affecting the Developer or its property, or seeking to restrain or enjoin the performance by the Developer of the Agreement or the transactions contemplated by the Agreement, or contesting the validity thereof. To the best of our knowledge after diligent inquiry, the Developer is not in default with respect to any order, writ, injunction or decree of any court, government or regulatory authority or in default in any respect under any law, order, regulation or demand of any governmental agency or instrumentality, a default under which would have a material adverse effect on the Developer or its business.

7. To the best of our knowledge after diligent inquiry, there is no default by the Developer or any other party under any material contract, lease, agreement, instrument or commitment to which the Developer is a party or by which the company or its properties is bound.

8. To the best of our knowledge after diligent inquiry, all of the assets of the Developer are free and clear of mortgages, liens, pledges, security interests and encumbrances except for those specifically set forth in the Documents.

9. The execution, delivery and performance of the Documents by the Developer have not and will not require the consent of any person or the giving of notice to, any exemption by, any registration, declaration or filing with or any taking of any other actions in respect of, any person, including without limitation any court, government or regulatory authority.

10. To the best of our knowledge after diligent inquiry, the Developer owns or possesses or is licensed or otherwise has the right to use all licenses, permits and other governmental approvals and authorizations, operating authorities, certificates of public convenience, goods carriers permits, authorizations and other rights that are necessary for the operation of its business.

11. A federal or state court sitting in the State of Illinois and applying the choice of law provisions of the State of Illinois would enforce the choice of law contained in the Documents and apply the law of the State of Illinois to the transactions evidenced thereby.

We are attorneys admitted to practice in the State of Illinois and we express no opinion as to any laws other than federal laws of the United States of America and the laws of the State of Illinois.

This opinion is issued at the Developer's request for the benefit of the City and its counsel, and may not be disclosed to or relied upon by any other person.

Very truly yours,

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

[(Sub)Exhibit "A" referred to in this Opinion of Developer's Counsel unavailable at time of printing.]

*(Sub)Exhibit "K".*  
(To Redevelopment Agreement  
With Ashland Arms, Inc.)

*Requisition Form.*

State of Illinois )  
                          )SS.  
County of Cook )

The affiant, \_\_\_\_\_, of Ashland Arms Inc., an Illinois corporation (the "Developer"), hereby certifies that with respect to that certain Redevelopment Agreement between the Developer and the City of Chicago dated \_\_\_\_\_, 2005 (the "Agreement"):

A. Expenditures for the Project, in the total amount of \$\_\_\_\_\_, have been made.

B. This paragraph B sets forth and is a true and complete statement of all costs of T.I.F.-Funded Improvements for the Project reimbursed by the City to date:

\$\_\_\_\_\_

C. The Developer requests reimbursement for the following cost of T.I.F.-Funded Improvements:

\$\_\_\_\_\_

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

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

1. Except as described in the attached certificate, the representations and warranties contained in the Redevelopment Agreement are true and correct and the Developer is in compliance with all applicable covenants contained herein.

2. No 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.

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

[Developer]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_

My commission expires: \_\_\_\_\_

Agreed and Accepted:

\_\_\_\_\_  
Name

Title: \_\_\_\_\_

City of Chicago,  
Department of Planning and Development

*(Sub)Exhibit "L".*  
(To Redevelopment Agreement  
With Ashland Arms, Inc.)

*Form Of Subordination Agreement.*

This Subordination Agreement ("Agreement") is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 2005 between the City of Chicago by and through its Department of Planning and Development (the "City"), and [Name Lender], a [national banking association] (the "Lender").

*Witnesseth.*

Whereas, Ashland Arms, Inc., an Illinois corporation (the "Developer") has acquired certain property located within the Clark Street/Ridge Avenue Redevelopment Project Area at 6406 -- 6412 North Clark Street, Chicago, Illinois 60626 and legally described on (Sub)Exhibit B hereto (the "Property"), in order to commence and complete rehabilitation of an approximately eleven thousand (11,000) square foot building with three (3) retail storefronts on the ground level and a forty-four (44) unit single-room occupancy hotel on the second (2<sup>nd</sup>) and third (3<sup>rd</sup>) floors to provide twenty (20) affordable apartment units, consisting of twelve (12) studios and eight (8) one (1) bedroom apartments for low- and very low-income residents, rehabilitate the commercial space and restore the facade of the building (the "Facility") thereon. The "Project" shall mean, collectively, (a) the acquisition of the Property and (b) the Facility and related improvements (including but not limited to those T.I.F.-Funded Improvements as defined below and set forth on (Sub)Exhibit C); and



Whereas, As part of obtaining financing for the Project, the Developer has entered into [insert loan documents] (all such agreements referred to above and otherwise relating to the Loan referred to herein collectively as the "Loan Documents"); and

Whereas, The Developer desires to enter into a certain Redevelopment Agreement dated the date hereof with the City in order to obtain additional financing for the Project (the "Redevelopment Agreement", referred to herein along with various other agreements and documents related thereto as the "City Agreements"); and

Whereas, Pursuant to the Redevelopment Agreement, the Developer will agree to be bound by certain covenants expressly running with the Property, as set forth in Sections 8.02, 8.06, 8.19 and 8.20 of the Redevelopment Agreement (the "City Encumbrances"); and

Whereas, The City has agreed to enter into the Redevelopment Agreement with the Developer as of the date hereof, subject, among other things, to (a) the execution by the Developer of the Redevelopment Agreement and the recording thereof as an encumbrance against the Property; and (b) the agreement by the Lender to subordinate their respective liens under the Loan Documents to the City Encumbrances;

Now, Therefore, For good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Lender and the City agree as hereinafter set forth:

1. Subordination. All rights, interests and claims of the Lender in the Property pursuant to the Loan Documents are and shall be subject and subordinate to the City Encumbrances. In all other respects, the Redevelopment Agreement shall be subject and subordinate to the Loan Documents. Nothing herein, however, shall be deemed to limit the Lender's right to exercise its rights pursuant to the Loan Documents except as provided herein.

2. Notice Of Default. The Lender shall use reasonable efforts to give to the City, and the City shall use reasonable efforts to give to the Lender, (a) copies of any notices of default which it may give to the Developer with respect to the Project pursuant to the Loan Documents or the City Agreements, respectively, and (b) copies of waivers, if any, of the Developer's default in connection therewith. Under no circumstances shall the Developer or any third party be entitled to rely upon the agreement provided for herein.

3. Waivers. No waiver shall be deemed to be made by the City or the Lender of any of their respective rights hereunder, unless the same shall be in writing, and each waiver, if any, shall be a waiver only with respect to the specific instance involved and shall in no way impair the rights of the City or the Lender in any other respect at any other time.

4. Governing Law; Binding Effect. This Agreement shall be interpreted, and the rights and liabilities of the parties hereto determined, in accordance with the

internal laws and decisions of the State of Illinois, without regard to its conflict of law principles, and shall be binding upon and inure to the benefit of the respective successors and assigns of the City and the Lender.

5. Section Titles; Plurals. The section titles contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto. The singular form of any word used in this Agreement shall include the plural form.

6. Notices. Any notice required hereunder shall be in writing and addressed to the party to be notified as follows:

If To The City:

City of Chicago Department of Planning  
and Development  
121 North LaSalle Street, Room 1000  
Chicago, Illinois 60602  
Attention: Commissioner

with a copy to:

City of Chicago Department of Law  
121 North LaSalle Street, Room 600  
Chicago, Illinois 60602  
Attention: Finance and Economic  
Development Division

If To The Lender:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

with a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

or to such other address as either party may designate for itself by notice. Notice shall be deemed to have been duly given (i) if delivered personally or otherwise

actually received, (ii) if sent by overnight delivery service, (iii) if mailed by first class United States mail, postage prepaid, registered or certified, with return receipt requested, or (iv) if sent by facsimile with facsimile confirmation of receipt (with duplicate notice sent by United States mail as provided above). Notice mailed as provided in clause (iii) above shall be effective upon the expiration of three (3) business days after its deposit in the United States mail. Notice given in any other manner described in this paragraph shall be effective upon receipt by the addressee thereof; provided, however, that if any notice is tendered to an addressee and delivery thereof is refused by such addressee, such notice shall be effective upon such tender.

7. Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one (1) instrument.

In Witness Whereof, This Subordination Agreement has been signed as of the date first written above.

[Lender], [a national banking association]

By: \_\_\_\_\_

Its: \_\_\_\_\_

City of Chicago

By: \_\_\_\_\_

Its: \_\_\_\_\_ Commissioner,  
Department of Planning  
and Development

Acknowledged and Agreed to this  
\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

[Developer], a \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

State of Illinois )  
 )SS.  
 County of Cook )

I, the undersigned, a notary public in and for the County and State aforesaid, do hereby certify that \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ Commissioner of the Department of Planning and Development of the City of Chicago, Illinois (the "City") and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such \_\_\_\_\_ Commissioner, (s)he signed and delivered the said instrument pursuant to authority, as his/her free and voluntary act, and as the free and voluntary act and deed of said City, for the uses and purposes therein set forth.

Given under my hand and notarial seal this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
 Notary Public

[Seal]

State of Illinois )  
 )SS.  
 County of Cook )

I, \_\_\_\_\_, a notary public in and for the said County, in the State aforesaid, do hereby certify that \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ of [Lender], a \_\_\_\_\_, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered said instrument, pursuant to the authority given to him/her by Lender, as his/her free and voluntary act and as the free and voluntary act of the Lender, for the uses and purposes therein set forth.

Given under my hand and notarial seal this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
 Notary Public

My commission expires: \_\_\_\_\_

[Seal]