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LASALLE PARK PUBLIC IMPROVEMENTS REDEVELOPMENT AGREEMENT

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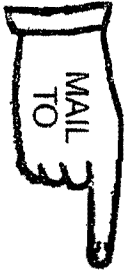
BY AND BETWEEN

THE CITY OF CHICAGO

AND

CLARK/TAYLOR L.L.C.

TICOR TITLE INSURANCE



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

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Exhibit I-2	MBE/WBE Budget
Exhibit J	Permitted Liens
Exhibit K	Requisition Form
Exhibit L	Approved Prior Expenditures
Exhibit M	Opinion of Developer's Counsel

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

#### LASALLE PARK PUBLIC IMPROVEMENTS REDEVELOPMENT AGREEMENT

This LaSalle Park Public Improvements Redevelopment Agreement (this "Agreement") is made as of this \_\_\_\_ day of December, 2002, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("DPD"), and Clark/Taylor, L.L.C., a Delaware limited liability company (the "Developer").

#### RECITALS

A. Constitutional Authority: As a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois (the "State"), the City has the power to regulate for the protection of the public health, safety, morals and welfare of its inhabitants, and pursuant thereto, has the power to encourage private development in order to enhance the local tax base, create employment opportunities and to enter into contractual agreements with private parties in order to achieve these goals.

B. Statutory Authority: The City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as amended from time to time (the "Act"), to finance projects that eradicate blighted conditions 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 "the City Council") adopted the following ordinances on July 30, 1997: (1) "An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the River South Redevelopment Project Area"; (2) "An Ordinance of the City of Chicago, Illinois Designating the River South 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 River South Redevelopment Project Area" (the "TIF Adoption Ordinance"), (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 intends to construct certain streets, alleys, utilities and additional improvements in the area generally bounded by West Polk Street, South Clark Street, West Roosevelt Road and South Wells Street and legally described on Exhibit B attached hereto and made a part hereof (the "Planned Development Property"). The real property in which such improvements shall be located shall be dedicated to the City on or before the Closing Date. The construction of such improvements will take place in two phases. The first phase will include the improvements described in Exhibit C-1 (the "Phase I Improvements"). The second phase, which is optional and shall be at the Developer's discretion, will include the improvements described in Exhibit C-2 (the "Phase II Improvements"). The Phase I Improvements will establish a new street grid to serve the portion of the Planned Development west of the METRA right of way and other surrounding properties. As a condition to constructing the Phase I and Phase II Improvements, the City will cause the Old ROW Property (as hereinafter defined) to be vacated and, in exchange, the Developer will dedicate the New ROW Property (as hereinafter defined) (the "Vacations and Dedications"). The locations of the rights of way to be vacated and dedicated are generally described on Exhibit D-1 and are depicted on Exhibit D-2. The time frames for completing the Phase I Improvements and, if undertaken, the Phase II Improvements, are set forth in Section 3.01 hereof. The Phase I and Phase II Improvements (including but not limited to those TIF-Funded Improvements as defined below and set forth on Exhibit E) are collectively referred to herein as the "Project." The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

E. Redevelopment Plan: The Project will be carried out in accordance with this Agreement and the City of Chicago River South Tax Increment Financing Redevelopment Project and Plan (the "Redevelopment Plan") attached hereto as Exhibit F, as amended from time to time.

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

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:

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

"Available Incremental Taxes" shall mean an amount equal to eighty percent (80%) of the Incremental Taxes deposited in the River South Redevelopment Project Area TIF Fund attributable to the taxes levied on the Planned Development Property, less the amount of the City Fee described in Section 4.05(c) hereof. As of the date of this Agreement, the Planned Development Property is comprised of the following tax parcels:

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 17-16-410-012  
 17-16-410-014  
 17-16-410-015  
 17-16-410-019  
 17-16-410-020  
 17-16-410-021  
 17-16-411-003  
 17-16-411-004  
 17-16-412-010  
 17-16-412-011  
 17-16-412-012  
 17-16-412-013  
 17-16-416-005



17-16-416-006  
17-16-416-007

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

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

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

"Certificate of Expenditure" shall mean a certificate in the form of the certificate of expenditure attached as Schedule 1 to the City Note.

"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 Fee" shall mean the fee described in Section 4.05(c) hereof.

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

"City Note-Acquisition Parcel" shall mean the City of Chicago Tax Increment Allocation Revenue Note River South Redevelopment Project Area(Clark/Taylor, L.L.C. Project-Acquisition Parcel), Taxable Series \_\_\_\_\_, to be in the form attached hereto as Exhibit G-1, in the maximum principal amount of the \$1,225,200 to be issued by the City to the Developer on the date the City issues the Certificate under Section 7.01 for the Phase I Improvements. The City Note-Acquisition Parcel shall bear interest at an annual rate equal to the lesser of (x) nine percent (9.00%), and (y) the sum of (i) the prime rate charged by Bank One or any other major national banking association acceptable to the City as of the date such City Note is delivered for authentication by the City Clerk, plus (ii) one-half of one percent (0.50%).

"City Note-Phase I" shall mean the City of Chicago Tax Increment Allocation Revenue Note River South Redevelopment Project Area(Clark/Taylor, L.L.C. Project-Phase I), Taxable Series \_\_\_\_\_, to be in the form attached hereto as G-2, in the maximum principal amount of the lesser of (a) \$2,709,329, and (b) the actual cost of the Phase I Improvements itemized in the Project Budget (as the same may be amended in accordance with Section 3.05, but less \$1,225,200 for the Wells Street Parcel) that constitute public improvements, to be issued by the City to the Developer on the Closing Date. The City Note-Phase I shall bear interest at an annual rate of equal to the lesser of (x) nine percent (9.00%), and

(y) the sum of (i) the prime rate charged by Bank One or any other major national banking association acceptable to the City as of the date such City Note is delivered for authentication by the City Clerk, plus (ii) one-half of one percent (0.50%).

"City Note-Phase II" shall mean the City of Chicago Tax Increment Allocation Revenue Note River South Redevelopment Project Area (Clark/Taylor, L.L.C. Project-Phase II), Taxable Series \_\_\_\_\_, to be in the form attached hereto as Exhibit G-2, in the maximum principal amount of the lesser of (a) \$4,682,264, and (b) the actual cost of the Phase II Improvements itemized in the Project Budget (as the same may be amended in accordance with Section 3.05) that constitute public improvements, to be issued by the City to the Developer as described in Section 4.03(c). The City Note-Phase II shall bear interest at an annual rate of equal to the lesser of (x) nine percent (9.00%), and (y) the sum of (i) the prime rate charged by Bank One or any other major national banking association acceptable to the City as of the date such City Note is delivered for authentication by the City Clerk, plus (ii) one-half of one percent (0.50%).

"City Note(s)" shall mean one or more of the City Note-Phase I, the City Note-Acquisition Parcel, and the City Note-Phase II, as applicable.

"Closing Date" shall mean the date of execution and delivery of this Agreement by all parties hereto. For purposes of Section 5, "Closing Date" shall also mean the date of closing with respect to the issuance of the City Note-Phase II, in the event the Developer elects to construct the Phase II Improvements.

"Construction Contract(s)" shall mean either the Construction Contract-Phase I, or the Construction Contract-Phase II, or both such contracts, as applicable.

"Construction Contract-Phase I" shall mean that certain contract, substantially in the form attached hereto as Exhibit H, between the Developer and the General Contractor providing for construction of the Phase I Improvements.

"Construction Contract-Phase II" shall mean the construction contract to be entered into between the Developer and the General Contractor providing for construction of the Phase II Improvements.

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

"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,

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

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

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

"Escrow Agreement" shall mean the Escrow Agreement establishing a construction escrow, to be entered into by the Title Company (or an affiliate of the Title Company), the Developer and the Developer's lender(s), which shall be in a form reasonably acceptable to DPD and the City's corporation counsel.

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

"Financial Statements" shall mean compiled audited financial statements of the Developer reviewed 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.

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

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

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

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

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

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

"New ROW Property" shall mean the real property generally described on Exhibit D-1 and depicted on Exhibit D-2 as "New R.O.W. to be dedicated" that will be dedicated by the Developer as a public way as part of the Project, consisting of approximately 121,016 square feet.

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

"Old ROW Property" shall mean the real property generally described on Exhibit D-1 and depicted on Exhibit D-2 as "Existing R.O.W. to be vacated" that will be vacated as part of the Project, consisting of approximately 101,089 square feet.

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

"Phase I Improvements" shall mean the improvements described in Exhibit C-1 attached hereto and made a part hereof.

"Phase II Improvements" shall mean the improvements described in Exhibit C-2 attached hereto and made a part hereof.

"Planned Development" shall mean Residential-Business Planned Development Number 523, as approved by the City Council of the City on January 20, 1999 and published in the Journal of Proceedings of the City Council for such date at pages 88332-88369.

"Plans and Specifications" shall mean, the final construction documents containing a site plan and working drawings and specifications for the Phase I Improvements and the Phase II Improvements, as applicable.

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

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

"Public Improvement Property" shall mean the Old ROW Property and the New ROW Property, collectively.

"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.

"Reimbursement Event" shall mean an act or omission of the Developer resulting in a Event of Default relating to: (i) a material and intentional misrepresentation to the City relating to the Project; (ii) a fraudulent act or omission relating to the Project; (iii) a material and intentional misappropriation of funds from the uses set forth in the Project Budget resulting in the receipt by the Developer or a Developer Affiliate of additional fees, commissions or compensation not disclosed in the Project Budget or otherwise approved in writing by DPD; (iv) use of City Funds for payment or reimbursement of amounts other than for TIF-Funded Improvements or for payment of principal and interest on the City Notes; (v) a breach of the sale, refinancing, assignment and other provisions in Section 8.01(j) or Section 18.15; (vi) any material breach of Developer's representations, warranties or covenants regarding environmental matters contained in this Agreement, as applicable; (vii) any material misrepresentation in any Economic Disclosure Statements and Affidavit submitted; or (viii) any receipt of City Funds after the occurrence of an Event of Default under this Agreement, or the occurrence of an event which, if prompt notice of such event had been given, would have entitled the City to withhold, suspend, reduce or terminate the disbursement of such City Funds under this Agreement.

"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.

"River South Redevelopment Project Area TIF Fund" shall mean the special tax allocation fund created by the City in connection

with the Redevelopment Area into which the Incremental Taxes will be deposited.

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

"Survey" shall mean a Class A plat of survey in the most recently revised form of ALTA/ACSM land title survey of the New ROW Property dated within 45 days prior to the Closing Date, acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State of Illinois, certified to the City and the Title Company, and indicating whether the New ROW 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 New ROW Property in connection with the construction of the Phase I Improvements and the Phase II 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 earlier of: (a) any date to which DPD and the Developer have agreed, or (b) the date on which all amounts due under the City Notes have been paid. If the Developer elects not to construct the Phase II Improvements, the determination of the Term of the Agreement shall be made without reference to the City Note-Phase II.

"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, (iii) are set forth in the Project Budget and (iv) the City has agreed to pay for out of the Available Incremental Taxes, subject to the terms of this Agreement.

"Title Company" shall mean Ticor Title Insurance Company.

"Title Policy" shall mean a title insurance policy in the most recently revised ALTA or equivalent form, showing the City as the insured with respect to the New ROW Property and the Developer as the insured with respect to the Old ROW Property, noting the recording of this Agreement as an encumbrance against the New ROW Property.

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

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

"Wells Street Parcel" shall mean the triangular parcel of real property to be acquired by the Developer and to become a portion of the New ROW Property that is generally described on Exhibit D-1 and depicted on Exhibit D-2.

### SECTION 3. THE PROJECT

3.01 The Project. The Developer shall, (a) with respect to the Phase I Improvements, pursuant to the Plans and Specifications and subject to the provisions of Section 18.17 hereof: (i) commence construction within 180 days of the Closing Date; and (ii) complete construction within two years of the commencement of construction of the Phase I Improvements; and (b) with respect to the Phase II Improvements, pursuant to the Plans and Specifications approved by DPD in accordance with Section 3.02, and subject to the next sentence and the provisions of Section 18.17 hereof: (i) commence construction no later than June 30, 2004; and (ii) complete construction by June 30, 2006. Developer's failure to commence construction of the Phase II Improvements by June 30, 2004 shall not be a default under this Agreement but shall be deemed an election by the Developer to not construct such improvements, meaning the City shall thereafter have the right to construct such improvements itself, reimburse itself from the Available Incremental Taxes for the cost of such improvements, and not issue the City Note-Phase II to the Developer. Once the Developer commences the Phase II Improvements prior to June 30, 2004, however, the Developer shall thereafter be obligated to complete such improvements in accordance with the terms of this Agreement. The dates set forth in this Section 3.01 may be extended by the Commissioner, in his sole discretion.

3.02 Scope Drawings and Plans and Specifications. The Developer has delivered the Scope Drawings and Plans and Specifications for the Phase I Improvements, and the Scope Drawings for the Phase II Improvements, to DPD and DPD has reviewed same. After such initial approval, subsequent proposed changes to the Scope Drawings or Plans and Specifications shall be submitted to DPD as a Change Order pursuant to Section 3.04 hereof. The Scope Drawings and Plans and Specifications shall at all times conform to the Redevelopment Plan as amended from time to time and all applicable federal, state and local laws, ordinances and regulations. The Developer shall submit any other necessary documents to such other City departments or governmental authorities as may be necessary to acquire building permits and other required approvals for the Project. Final Plans and Specifications for the Phase II Improvements shall be approved by DPD and any other necessary City departments prior to commencement of such construction of such improvements.

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 Three Million Nine Hundred Thirty-Four Thousand Five Hundred Twenty-Nine Dollars (\$3,934,529) for the Phase I Improvements (including \$1,225,200 for the cost of the Wells Street Parcel) and not less than Four Million Six Hundred Eighty-Two Thousand Two Hundred Sixty-Four Dollars (\$4,682,264) for the Phase II Improvements. The Developer hereby certifies to the City that (a) it has Lender Financing and Equity in an amount sufficient to pay for all Redevelopment Project Costs for the Phase I Improvements; and (b) the Project Budget is true, correct and complete in all material respects. The Developer shall promptly deliver to DPD certified copies of any Change Orders with respect to the Project Budget for approval pursuant to Section 3.04 hereof.

3.04 Change Orders. Except as provided below, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to material changes to the Project must be submitted by the Developer to DPD concurrently with the progress reports described in Section 3.07 hereof. Only Changes Orders relating to a delay in the commencement or completion of the Phase I Improvements or the Phase II Improvements will require DPD's prior written approval. The Construction Contracts, 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 Available Incremental Taxes 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, Change Orders costing less than One Hundred Thousand Dollars (\$100,000.00) each, to an aggregate amount of One Million (\$1,000,000.00), do not require DPD's prior written approval as set forth in this Section 3.04, but DPD shall be notified in writing of all such Change Orders 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 any improvements or the Project. Without limiting the generality of the foregoing, nothing in this Agreement shall be construed to relieve the Developer of its obligation to comply with (a) all requirements applicable to a private party's construction of public improvements, whether such requirements arise under the Municipal Code, under Department of Transportation, Department of Water or Department of Sewers policies and standards, as a result



of Board of Underground responses, or otherwise, or (b) the requirements of the Planned Development (the Developer acknowledging and agreeing that this Agreement does not modify the Planned Development in any way).

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 either phase 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) for such phase of the Project and proof of the General Contractor's and each subcontractor's bonding (and the posting of any required letters of credit) as required under the Municipal Code and under any applicable City department policies. Nothing in this Section 3.06 shall be construed to obligate any subcontractor to obtain any bond or post any letter of credit not otherwise required under the Municipal Code.

3.07 Progress Reports and Survey Updates. The Developer shall provide DPD with written quarterly progress reports dated as of March 31st, June 30th, September 30th and December 31<sup>st</sup> detailing the status of the Project, including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring DPD's written approval pursuant to Section 3.04). Upon completion of the Phase I Improvements, if applicable, and then subsequently upon completion of the Phase II Improvements, 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 New ROW Property.

3.08 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 required barricades, if any.

3.09 Signs and Public Relations. The Developer shall erect a sign of size and style approved by the City in a conspicuous location on the Planned Development 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 Planned Development Property and the Project in the City's promotional literature and communications.

3.10 Utility Connections. The Developer may connect all on-site water, sanitary, storm and sewer lines constructed on the New

ROW Property to City utility lines existing on or near the perimeter of the New ROW Property, provided the Developer first complies with all City requirements and Board of Underground response requirements governing such connections, including the payment of customary fees and costs related thereto.

3.11 Permit Fees. In connection with the Project, the Developer shall be obligated to pay only those building, permit, engineering, tap on and inspection fees that are assessed on a uniform basis throughout the City of Chicago and are of general applicability to other property within the City of Chicago.

#### SECTION 4. FINANCING

4.01 Total Project Cost and Sources of Funds. The cost of the Project is estimated to be Eight Million Six Hundred Sixteen Thousand Seven Hundred Ninety Three and No/100 Dollars (\$8,616,793), to be applied between the two phases 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> )	\$8,616,793
and/or Lender Financing	

<b>ESTIMATED TOTAL</b>	<b>\$ 8,616,793</b>
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4.02 Developer Funds. Equity and/or Lender Financing shall be used to pay all Project Costs, including but not limited to Redevelopment Project Costs and costs of TIF-Funded Improvements.

#### 4.03 City Funds.

(a) Uses of City Funds. City Funds may be used to reimburse the Developer only for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs. Exhibit E 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 Section 4.05(d)), contingent upon receipt by the City of documentation satisfactory in form and substance to DPD evidencing such cost and its eligibility as a Redevelopment Project Cost.

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

<u>Source of City Funds</u>	<u>Maximum Amount</u>
City Notes (to be repaid from Available Incremental Taxes)	\$8,616,793*

\* Maximum principal amount of City Notes; does not include interest that may accrue thereon, which interest may also be paid from Available Incremental Taxes

provided, however, that such Available Incremental Taxes shall be available and allocated to pay principal and interest on the City Notes only so long as:

(i) The amount of the Incremental Taxes deposited into the River South TIF Fund that comprise Available Incremental Taxes under this Agreement shall be sufficient to pay for such costs; and

(ii) The City has been reimbursed from Available Incremental Taxes for the amount previously disbursed by the City for TIF-Funded Improvements (including, without limitation, the cost of the Phase II Improvements, in the event the Developer elects not to construct such improvements and the City subsequently constructs such improvements); and

(iii) The City has been paid the City Fee payable to Section 4.05(c).

The Developer acknowledges and agrees that the City's obligation to pay for TIF-Funded Improvements up to the Maximum Amount is contingent upon the fulfillment of the conditions set forth in parts (i), (ii) and (iii) above.

(c) City Notes. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Section 5 hereof, the City hereby agrees to issue the City Note-Phase I to the Developer on the Closing Date. Upon issuance of the City Note-Phase I, the initial outstanding principal indebtedness due thereunder shall equal the Prior Expenditures for TIF-Funded Improvements for the Phase I Improvements approved by DPD as of the Closing Date, as shown on Exhibit L, plus such additional expenditures for TIF-Funded Improvements as may be approved by DPD. Thereafter, the Developer may request increases in the outstanding principal indebtedness thereunder in accordance with Section 4.04 below. In no event shall the outstanding principal indebtedness of the City Note-Phase I be increased above Two Million Seven Hundred Nine Thousand Three Hundred Twenty-Nine and No/100 Dollars (\$2,709,329).

Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Section 5 hereof, the City hereby agrees to issue the City Note-Acquisition

Parcel to the Developer upon the issuance of a Certificate for the Phase I Improvements. Upon issuance of the City Note-Acquisition Parcel, the initial outstanding principal indebtedness due thereunder shall be One Million Two Hundred Twenty-Five Thousand Two Hundred Dollars (\$1,225,200), representing the acquisition price of the Wells Street Parcel. The Developer shall have the right to assign the Note to the seller of the Wells Street Parcel pursuant to that certain Development and Reimbursement Agreement dated November 6, 2000 between the Developer and such seller.

Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03, Section 3.01 and Section 5 hereof, the City hereby agrees to issue the City Note-Phase II to the Developer upon the Developer's satisfaction of the following prior to the date specified in Section 3.01: (x) delivery of written notice to the City on or before June 30, 2004 of its intent to construct the Phase II Improvements and evidence of financing to complete the Phase II Improvements, and (z) the Developer's actual commencement of construction of such improvements prior to such date. The initial outstanding principal indebtedness due under the City Note-Phase II shall equal the prior expenditures for TIF-Funded Improvements for the Phase II Improvements approved by DPD as of the such date. Thereafter, the Developer may request increases in the outstanding principal indebtedness thereunder in accordance with Section 4.04 below. In no event shall the outstanding principal indebtedness of the City Note-Phase II be increased above Four Million Six Hundred Eighty-Two Thousand Two Hundred Sixty-Four and No/100 Dollars (4,682,264).

The City's obligation to make payments under the City Notes is subject to the amount of Available Incremental Taxes being sufficient for such payments. Such Available Incremental Taxes shall be the sole source of payment for the City Notes. Initially, all Available Incremental Taxes shall be applied first to make payments with respect to the City Note-Phase I. Upon issuance of the City Note-Acquisition Parcel, and prior to the issuance of the City Note-Phase II, Available Incremental Taxes shall be applied first to make payments with respect to the City Note-Phase I (if not previously repaid), and then to make payments with respect to the City Note-Acquisition Parcel. After the issuance of the City Note-Phase II, the Available Incremental Taxes shall be applied first to make payments with respect to the City Note-Phase I (if not previously repaid), then to make payments with respect to the City Note-Acquisition Parcel (if not previously repaid), and then to make payments with respect to the City Note-Phase II.

4.04 Requisition Form. On the Closing Date and up to four times per year thereafter throughout the Term of the Agreement, the Developer may provide DPD with a Requisition Form with respect to the City Note-Phase I (and, after issuance of the City Note-Acquisition Parcel and the City Note-Phase II), along with the documentation described therein. Within 60 days of receipt of

each such date, (or such other date as may be acceptable to the parties), the Developer shall meet with DPD at the request of DPD to discuss the Requisition Form(s) previously delivered. If DPD approves the Requisition Form(s) (or some portion of the amount set forth therein) and executes a Certificate of Expenditure, the outstanding principal indebtedness under the applicable City Note shall then be increased by the amount set forth in such Certificate of Expenditure. After completion of construction of the Phase I Improvements and, if applicable, the Phase II Improvements, Requisition Forms for the respective City Notes will be submitted annually to request payments with respect to the applicable Note(s). In no instance shall the Developer submit a Requisition Form that includes costs for correcting deficient work, replacing deficient materials, or other costs attributable to a failure to initially build the Phase I Improvements or the Phase II Improvements in accordance with all applicable laws and City requirements.

4.05 Treatment of Prior Expenditures and Subsequent Disbursements.

(a) Prior Expenditures. Only those expenditures made by the Developer with respect to the Phase I Improvements 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 L 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 the twenty percent (20%) of the Incremental Taxes from the tax parcels comprising the Planned Development (i.e., the remaining Incremental Taxes not reserved under the definition of "Available Incremental Taxes" and Section 4.03(b) hereof) for payment of costs incurred by the City for the administration and monitoring of 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 under any City Notes.

(c) Allocation Among Line Items. Disbursements for expenditures related to TIF-Funded Improvements may be allocated to and charged against any line items with the prior written consent of DPD, which shall not be unreasonably withheld, provided, however, that not more than \$1,225,200 may be allocated for the acquisition of the Wells Street Parcel.

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

4.07 No Compensation for Vacations and Dedications. The City has determined that the total value of the vacated Old ROW Property is approximately equal to the total value of the dedicated New ROW Property. Accordingly, no compensation shall be paid by the Developer to the City, nor by the City to the Developer, for any such vacations and dedications.

## SECTION 5. CONDITIONS PRECEDENT

The following conditions shall be complied with to the City's satisfaction within the time periods set forth below or, if no time period is specified, five (5) business days prior to the Closing Date, and five (5) business days prior to the issuance of the City Note-Phase II, as applicable:

5.01 Project Budget. The Developer shall have submitted to DPD, and DPD shall have approved, a Project Budget for the applicable phase of the Project in accordance with the provisions of Section 3.03 hereof.

5.02 Scope Drawings and Plans and Specifications. The Developer shall have submitted to DPD, and DPD shall have approved, the Scope Drawings and Plans and Specifications for the applicable phase of the Project in accordance with the provisions of Section 3.02 hereof.

5.03 Other Governmental Approvals. The Developer shall have secured all other necessary approvals and permits for commencement of the Phase I Improvements or Phase II Improvements, as applicable, required by any state, federal, or local statute, ordinance or regulation and shall submit evidence thereof to DPD.

5.04 Financing. The Developer shall have 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 applicable phase of the Project and satisfy its obligations under this Agreement. If a portion of such funds consists of Lender Financing, the Developer shall have furnished proof as of the Closing Date that the proceeds thereof are available to be drawn upon by the Developer as needed and are sufficient (along with the Equity set forth in Section 4.01) to complete such phase of the Project. Prior to the Closing Date, the Developer shall deliver to DPD a copy of the construction escrow

agreement entered into by the Developer regarding the Lender Financing.

5.05 Acquisition and Title. On the Closing Date, the Developer shall furnish the City with a copy of the Title Policy with respect to the Phase I Improvements. The Title Policy shall be dated as of the Closing Date and shall contain only those title exceptions listed as Permitted Liens on Exhibit J hereto and shall evidence the recording of this Agreement pursuant to the provisions of Section 8.18 hereof. The Title Policy shall also contain such endorsements as shall be required by Corporation Counsel, including but not limited to an owner's comprehensive endorsement and satisfactory endorsements regarding zoning, access and survey. The Developer shall provide to DPD, prior to the Closing Date, the Developer's contract with the owner of the Wells Street Parcel pursuant to which such owners shall dedicate such Parcel to the City and certified copies of all easements and encumbrances of record with respect to the New ROW Property associated with the Phase I Improvements. Comparable deliveries shall be made five (5) business days prior to the Closing Date for the Phase II Improvements.

5.06 Evidence of Clean Title. The Developer, at its own expense, shall have provided the City with current searches under the names of the Developer, CTL Investors, L.L.C., W. H. Limited Partnership No. 17, W/H Development Corporation, Asworth Corporation, Matthew M. Walsh, Jr., Daniel J. Walsh and John W. Higgins, 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 New ROW Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens.

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

5.08 Insurance. The Developer, at its own expense, shall have delivered the certificates required pursuant to Section 12 hereof evidencing the required coverages to DPD with respect to the construction of the Phase I Improvements or Phase II Improvements, as applicable.

5.09 Opinion of the Developer's Counsel. The Developer shall furnish the City with a draft opinion of counsel, substantially in the form attached hereto as Exhibit M, with such changes as may be required by or acceptable to Corporation Counsel, with the original opinion to be delivered on the Closing Date. 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 M hereto, such opinions shall be obtained by the Developer from its general corporate counsel.

5.10 Evidence of Prior Expenditures. The Developer shall have 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 shall have provided Financial Statements to DPD for its last two complete fiscal year, and interim Financial Statements for the current year to date.

5.12 Documentation. The Developer shall have provided documentation to DPD, satisfactory in form and substance to DPD, with respect to current employment matters and its ability to satisfy MBE/WBE and City resident employment standards. Such evidence shall include, without limitation: the Developer's MBE/WBE Utilization Plan, including Schedules C and D; evidence that the General Contractor has met at least once with, and provided bid documents to, applicable MBE/WBE contractor associations; and evidence of meeting with DPD's monitoring staff.

5.13 Environmental. Not less than thirty (30) days prior to the Closing Date, the Developer shall have provided DPD with copies of any phase I environmental audits completed with respect to the Planned Development Property or the New ROW Property. Based on the City's review thereof, the City may, in its sole discretion, require the completion of a phase II environmental audit with respect to the Planned Development Property or New ROW Property prior to the Closing Date. The City reserves the right to terminate negotiations with respect to this Agreement if, in the City's view, such audits reveal the existence of material environmental problems. Prior to the Closing Date, the Developer shall provide 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. The Developer shall provide a copy of its Articles of Organization containing the original certification of the Secretary of State of its state of formation; certificates of good standing or existence from the Secretary of State of its state of incorporation and all other states in which the Developer is qualified to do business; a managing member's certificate in such form and substance as the Corporation Counsel



may require attaching the Developer's operating agreement and evidence of requisite consent to the Redevelopment Agreement; and such other limited liability company documentation as the City may request. Comparable documentation shall, if requested by the City, be provided for the Developer's members and the upper-tier owner(s) of such members.

5.15 Litigation. The Developer shall provide to Corporation Counsel and DPD, a description of all pending or threatened litigation or administrative proceedings involving the Developer (and, if requested by the City, the parties named in Section 5.06), specifying, in each case, the amount of each claim, an estimate of probable liability, the amount of any reserves taken in connection therewith and whether (and to what extent) such potential liability is covered by insurance.

5.16 Construction Clearance. The Developer shall provide DPD with such Board of Underground documents, plats of vacation and dedication and related ordinances as DPD may require in order to vacate the Old ROW Property, dedicate the New ROW Property and complete construction of the Phase I Improvements and Phase II Improvements, as applicable, within the applicable time frame set forth in Section 3.01.

5.17 Preconditions of Disbursement. Prior to each request for an increase in the principal amount of any City Note (an "Increase Request") and prior to each disbursement (a "Payment Request") of City Funds pursuant to any City Note, the Developer shall submit documentation of such expenditures to DPD, which shall be satisfactory to DPD in its sole discretion. Delivery by the Developer to DPD of an Increase Request or Requisition Form including a Payment Request shall, in addition to the items set forth in any Requisition Form, constitute a certification to the City, as of the date of such delivery that:

(a) with respect to any Increase Request, such request represents the actual amount payable to (or paid to) the General Contractor and/or subcontractors who have performed work on the phase of the Project to which the request relates, and/or their payees;

(b) with respect to any Increase Request, all amounts shown as previous payments on the Requisition Form have been paid to the parties entitled to such payment;

(c) with respect to any Increase Request, the Developer has approved all work and materials to date for the phase of the Project to which the request relates, and such work and materials conform to the Plans and Specifications;

(d) with respect to any Increase Request or Payment Request, the representations and warranties contained in this Redevelopment

Agreement are true and correct and the Developer is in compliance with all covenants contained herein;

(e) with respect to any Increase Request or Payment Request, the Developer has received no notice and has no knowledge of any liens or claim of lien either filed or threatened against the New ROW Property except for the Permitted Liens;

(f) with respect to any Increase Request or Payment Request, 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; provided, however that if the Event of Default relates only to the Phase I Improvement or the Phase II Improvements (and not the entire Project), the City shall continue to make disbursements with respect to the City Note applicable to the phase of the Project that is not in default; and

(g) with respect to Increase Requests only, the phase of the Project to which the request relates is In Balance. Such phase shall be deemed to be in balance ("In Balance") only if the total of the available Project funds for such phase of the Project equals or exceeds the aggregate amount necessary to pay all unpaid Project costs incurred or to be incurred in the completion of such phase. "Available Project Funds" as used herein shall mean: (i) the undisbursed Lender Financing, if any, for such phase; (ii) the undisbursed Equity for such phase, and (iii) any other amounts deposited by the Developer pursuant to this Agreement, or otherwise. The Developer hereby agrees that, if the such phase of the Project is not In Balance, the Developer shall, within 10 days after a written request by the City, deposit with the City or the escrow agent, cash (or other evidence of Equity or Lender Financing) in an amount that will place such phase of the Project In Balance, which deposit shall first be exhausted before any further increase in the principal amount of any City Note or disbursement of any 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. In addition, the Developer shall have satisfied all other preconditions to increases in the principal amount of the City Note and disbursement of City Funds, including but not limited to requirements set forth in the Bond Ordinance, if any, TIF Bond Ordinance, if any, the Bonds, if any, the TIF Bonds, if any, the TIF Ordinances, this Agreement and/or the Escrow Agreement.

## SECTION 6. AGREEMENTS WITH CONTRACTORS

6.01 Bid Requirement for General Contractor and Subcontractors. Prior to entering into an agreement with a General Contractor or any subcontractor for construction of either phase of the Project, the Developer shall solicit, or shall cause the General Contractor to solicit, bids from qualified contractors eligible to do business with, the City of Chicago, and shall submit all bids received to DPD for its inspection and written approval. For the TIF-Funded Improvements, the Developer shall select the General Contractor (or shall cause the General Contractor to select the subcontractor) submitting the lowest responsible bid who can complete the Project in a timely manner. If the Developer selects a General Contractor (or the General Contractor selects any subcontractor) submitting other than the lowest responsible bid for the TIF-Funded Improvements, the difference between the lowest responsible bid and the bid selected may not be paid out of City Funds. The Developer shall submit copies of the Construction Contracts 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-Phase I with the General Contractor selected to handle the Phase I Improvements in accordance with Section 6.01 above, for DPD's prior written approval to determine whether said contract conforms with this Agreement, which shall be granted or denied within ten (10) business days after delivery thereof. If DPD should deny approval, it shall provide a written explanation of the grounds for denial. Within ten (10) business days after execution of the Construction Contracts 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. Prior to commencement of the Phase II Improvements, the Developer shall similarly deliver to DPD a copy of the proposed Construction Contract-Phase II with the General Contractor selected to handle the Phase II Improvements 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. If DPD should deny approval, it shall provide a written explanation of the grounds for denial.

6.03 Performance and Payment Bonds. Prior to commencement of construction of any portion of the Project which includes work in the public way (or real property that is to become public way as part of the Project), the Developer shall require that the General Contractor be bonded for its performance and payment by sureties having an AA rating or better using American Institute of Architect's Form No. A311 or its equivalent. The City shall be named as obligee or co-obligee on such bond.

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 Contracts and each contract with any subcontractor shall contain provisions required pursuant to Section 3.04 (Change Orders), Section 8.09 (Prevailing Wage), Section 10.01(e) (Employment Opportunity), Section 10.02 (City Resident Employment Requirement), Section 10.03 (MBE/WBE Requirements; General Contractor only), Section 12 (Insurance) and Section 14.01 (Books and Records) hereof. Photocopies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD within five (5) business days of the execution thereof.

## SECTION 7. COMPLETION OF CONSTRUCTION

7.01 Certificate of Completion of Construction. Upon completion of the construction of the Phase I Improvements in accordance with the terms of this Agreement, and confirmation that any required security, if any, for the Phase I Improvements has been provided (whether bonds, letters of credit or otherwise), and upon the Developer's written request, DPD shall issue to the Developer a Certificate in recordable form certifying that the Developer has fulfilled its obligation to construct the Phase I Improvements in accordance with the terms of this Agreement.

Upon completion of the construction of the Phase II Improvements in accordance with the terms of this Agreement, and confirmation that any required security, if any for the Phase II Improvements has been provided (whether bonds, letters of credit or otherwise), and upon the Developer's written request, DPD shall issue to the Developer a Certificate in recordable form certifying that the Developer has fulfilled its obligation to construct the Phase II Improvements in accordance with the terms of this Agreement.

DPD shall respond to the Developer's written request for a Certificate within thirty (30) days by issuing either a Certificate or a written statement detailing the ways in which the Project does

not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by the Developer in order to obtain the Certificate. The Developer may resubmit a written request for a Certificate upon completion of such measures.

7.02 Effect of Issuance of Certificate; Continuing Obligations. Each Certificate relates only to DPD's approval construction of the applicable phase of the Project for purposes of commencing payments under the applicable City Note, and upon the Certificate's 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 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. Such terms and conditions shall be binding upon the Developer and any 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. No further increases in the outstanding principal amount of any City Note shall occur after the issuance of a Certificate for the applicable phase of the Project.

7.03 Failure to Complete. If the Developer fails to complete either the Phase I Improvements or commences and then fails to complete the Phase II Improvements in accordance with the terms of this Agreement, then the City shall have, but shall not be limited to, any of the following rights and remedies:

(a) the right to terminate this Agreement and the City Note for such phase of the Project and cease all payments of City Funds not yet paid pursuant to such City Note;

(b) the right (but not the obligation) to complete any Phase I Improvements or Phase II 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. The Developer acknowledges and agrees that the City's exercise of such right with respect to the City's construction of the Phase II Improvements shall entitle the City to the priority payment of all Available Incremental Taxes until such time as the City has been paid for all of its costs, at which time the Developer shall again be entitled to the payment of such Available Incremental Taxes with respect to the City Note-Phase I and the City Note-Acquisition Parcel, to the extent that the Developer remains entitled at such time to further payments with respect to such City Note(s); and

(c) the right to seek reimbursement of any amounts previously paid to the Developer pursuant to the applicable City Note (if any) for the uncompleted phase of the Project.

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

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

8.01 General. The Developer represents, warrants and covenants, as of the date of this Agreement and as of the date of each disbursement of City Funds hereunder, or for such shorter period as may be expressly set forth below, that:

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

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

(c) the execution, delivery and performance by the Developer of this Agreement has been duly authorized by all necessary limited liability company action, and does not and will not violate its Articles of Organization or operating agreement, as amended and supplemented, any applicable provision of law, or constitute a material 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) [INTENTIONALLY OMITTED];

(e) at all times prior to the issuance of the final Certificate under Section 7.01 hereof, the Developer will be solvent and able to pay its debts as they mature;

(f) at all times prior to the issuance of the final Certificate under Section 7.01 hereof, there will be no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting any Developer Parties that would impair the Developer's ability to perform under this Agreement;

(g) prior to commencing construction of each phase of the Project, the Developer shall obtain and shall thereafter maintain and comply with, all government permits, certificates and consents (including, without limitation, appropriate Department of Transportation, Department of Sewers and Department of Water consents, Board of Underground requirements and environmental approvals) necessary to conduct its business and to construct and complete the Phase I Improvements and the Phase II Improvements;

(h) at all times prior to the issuance of the final Certificate under Section 7.01 hereof, the Developer will be in material compliance with 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) until the issuance of the final Certificate under Section 7.01, the Developer shall not do any of the following without the prior written consent of DPD: (1) be a party to any merger, liquidation or consolidation; (2) sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets if such event would adversely affect its ability to perform its obligations under this Agreement, it being understood that absent such adverse affect, the Developer will be free to transfer all or any portion of the remainder of the Planned Development site; (3) enter into any transaction outside the ordinary course of the Developer's business; (4) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity; or (5) enter into any transaction that would cause a material and detrimental change to the Developer's financial condition;

(k) the Developer has not incurred, and, prior to the issuance of a Certificate, shall not, without the prior written consent of the Commissioner of DPD, allow the existence of any liens against the New ROW Property other than the Permitted Liens; or incur any indebtedness, secured or to be secured by the New ROW Property or any fixtures now or hereafter attached thereto, except Lender Financing disclosed in the Project Budget;

(l) neither the Developer nor any Developer Affiliate has 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.

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 (subject to the Developer's right to elect to not commence the Phase II Improvements) complete the Project in accordance with this Agreement and all Exhibits attached hereto, the TIF Ordinances, the Scope Drawings, Plans and Specifications, the Planned Development, all Board of Underground requirements, the 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 New ROW Property and/or the Developer. The covenants set forth in this Section shall run with the New ROW Property and be binding upon any transferee.

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 attached hereto.

8.04 Use of City Funds. City Funds disbursed to the Developer shall be used by the Developer solely to reimburse the Developer for its prior payment of the TIF-Funded Improvements as provided in this Agreement.

8.05 Other Bonds. The Developer shall, at the request of the City, agree to any reasonable amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole discretion) any bonds in connection with the Project, the proceeds of which are to be used to reimburse the City for expenditures made in connection with the TIF-Funded Improvements (the "Bonds"); provided, however, that any such amendments shall not have a material adverse effect on the Developer or the Project. The Developer shall, at the Developer's expense, cooperate and provide reasonable assistance in connection with the marketing of any such Bonds, including but not limited to providing written descriptions of the Project, making representations, providing information regarding its financial condition and assisting the City in preparing an offering statement with respect thereto. If the City issues such Bonds, it may use the proceeds to repay any City Notes outstanding under this Agreement, without premium or penalty.

8.06 Job Creation and Retention; Covenant to Remain in the City. [INTENTIONALLY OMITTED]

8.07 Employment Opportunity; Progress Reports. The Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each



subcontractor to abide by the terms set forth in Section 10 hereof. The Developer shall deliver to the City written progress reports detailing compliance with the requirements of Sections 8.09, 10.02 and 10.03 of this Agreement. Such reports shall be delivered to the City on a monthly basis to DPD. If any such reports indicate a shortfall in compliance, the Developer shall also deliver a plan to DPD which shall outline, to DPD's satisfaction, the manner in which the Developer shall correct any shortfall.

8.08 Employment Profile. The Developer shall submit, and contractually obligate and cause the General Contractor or any subcontractor to submit, to DPD, from time to time, statements of its employment profile upon DPD's request.

8.09 Prevailing Wage. The Developer covenants and agrees to pay, and to contractually obligate and cause the General Contractor and each subcontractor to pay, the prevailing wage rate as ascertained by the Illinois Department of Labor (the "Department"), to all Project employees. All such contracts shall list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If the Department revises such prevailing wage rates, the revised rates shall apply to all such contracts. Upon the City's request, the Developer shall provide the City with copies of all such contracts entered into by the Developer or the General Contractor to evidence compliance with this Section 8.09.

8.10 Arms-Length Transactions. Except as disclosed in the Project Budget, and unless DPD shall have given its prior written consent with respect thereto, neither the Developer nor any Affiliate of the Developer may receive any portion of City Funds, directly or indirectly, in payment for work done, services provided or materials supplied in connection with any TIF-Funded Improvement. The Developer shall provide information with respect to any entity to receive City Funds directly or indirectly (whether through payment to the Affiliate by the Developer and reimbursement to the Developer for such costs using City Funds, or otherwise), upon DPD's request, prior to any such disbursement.

8.11 Conflict of Interest. Pursuant to Section 5/11-74.4-4(n) of the Act, to the actual knowledge of Michael O'Connor and John Higgins, no member, official, or employee of the City exercising authority over the Project, 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 intends to 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 intends to own or control any interest, direct or indirect, in the business of the Developer or any Affiliate thereof, the New ROW Property, the

Planned Development Property or any other real property in the Redevelopment Area.

8.12 Disclosure of Interest. The Developer's counsel has no direct or indirect financial ownership interest in the Developer, the Public Improvement Property or any other aspect of the Project.

8.13 Financial Statements. The Developer shall obtain and provide to DPD Financial Statements for the Developer's fiscal year ended December 31, 1999 and each fiscal year thereafter for the Term of the Agreement. In addition, the Developer shall submit unaudited financial statements as soon as reasonably practical following the close of each fiscal year and for such other periods as DPD may request.

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

8.15 Non-Governmental Charges. (a) Payment of Non-Governmental Charges. Except for the Permitted Liens, the Developer agrees to pay or cause to be paid when due any Non-Governmental Charge assessed or imposed upon the Project, the New ROW 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 New ROW 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 shall have 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 New ROW Property (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend the Developer's covenants to pay any such Non-Governmental Charge at the time and in the manner provided in this Section 8.15); or

(ii) at DPD's sole option, to furnish a good and sufficient bond or other security satisfactory to DPD in such form and amounts as DPD shall require, or a good and

sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the New ROW Property or any portion thereof or any fixtures that are or may be attached thereto, during the pendency of such contest, adequate to pay fully any such contested Non-Governmental Charge and all interest and penalties upon the adverse determination of such contest.

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

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

8.18 Recording and Filing. The Developer shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed on the date hereof in the conveyance and real property records of Cook County. This Agreement shall be recorded prior to any mortgages that encumbers any portion of the Public Improvement Property, provided, however, that if any such mortgages have already been recorded, a subordination agreement in a form acceptable to DPD will be prepared, executed and recorded. The Developer shall pay all fees and charges incurred in connection with any such recording. Upon recording, the Developer shall immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

8.19 Real Estate Provisions.

(a) Governmental Charges.

(i) Payment of Governmental Charges. The Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon the Developer, the New ROW Property or the Project, or become due and payable, and which create, may create, or appear to create a lien upon the Developer or all or any portion of the

New ROW Property or the Project. "Governmental Charge" shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances relating to the Developer, the New ROW Property or the Project including but not limited to real estate taxes.

(ii) Right to Contest. The Developer shall have 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 New ROW 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,

(i) the Developer shall demonstrate to DPD's satisfaction that legal proceedings instituted by the Developer contesting or objecting to a Governmental Charge shall conclusively operate to prevent or remove a lien against, or the sale or forfeiture of, all or any part of the New ROW Property to satisfy such Governmental Charge prior to final determination of such proceedings; and/or

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

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

Developer. Notwithstanding anything contained herein to the contrary, this paragraph shall not be construed to obligate the City to pay any such Governmental Charge. Additionally, if the Developer fails to pay any Governmental Charge, the City, in its sole discretion, may require the Developer to submit to the City audited Financial Statements at the Developer's own expense.

(c) Real Estate Taxes. [INTENTIONALLY OMITTED]

8.20 No Business Relationship With City Officials. The Developer acknowledges that it has read and understand Section 2-156-030(b) of the Municipal Code. Pursuant to Section 2-156-030(b) of the Municipal Code, it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other city official or employee with respect to any matter involving any person with whom the elected official has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code) or to participate in any discussion of any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship. Violation of Section 2-156-030(b) by any elected official, or with any person acting at the direction of such official, with respect to this Agreement, or in connection with the transactions contemplated hereby, shall be grounds for termination of this Agreement and the transactions contemplated hereby. The Developer represents and warrant that no violation of Section 2-156-030(b) has occurred with respect to this Agreement, or the transactions contemplated thereby.

8.21 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 or as provided in Section 8) 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 this 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 New ROW 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 New ROW 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 New ROW 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 Purchasing Agent of the City.

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"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 Purchasing Agent, 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 Purchasing Agent) 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.

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

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

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

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

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

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

c. Consistent with Section 2-92-440, Municipal Code of Chicago, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by the Developer), or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of (i) the MBE or WBE participation in such

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

d. The Developer shall deliver monthly reports to DPD during the Project describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports shall include inter alia the name and business address of each MBE and WBE solicited by the Developer or the General Contractor to work on the Project, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the Project, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist DPD in determining the Developer's compliance with this MBE/WBE commitment. DPD may also require, as part of such monthly reporting: (1) subcontractors' activity reports; (2) a General Contractor's certification concerning labor standards and prevailing wage requirements; (3) General Contractor's or subcontractors' letters of understanding; (4) a utilization report; (5) an authorization for payroll agent; (6) a certified payroll; and (7) evidence that MBE/WBE contractor's associations have been informed. DPD shall have access to the Developer's books and records, including, without limitation, payroll records, books of account and tax returns, and records and books of account in accordance with Section 14 of this Agreement, on five (5) business days' notice, to allow the City to review the Developer's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the Project.

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

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

g. Prior to the commencement of the Project, the Developer, the General Contractor and all major subcontractors shall be required to meet with the monitoring staff of DPD with regard to the Developer's compliance with its obligations under this Section 10.03. During this meeting, the Developer shall demonstrate to DPD its plan to achieve its obligations under this Section 10.03, the sufficiency of which shall be approved by DPD. Such demonstration shall include, without limitation, submitting for DPD's review (1) evidence that its General Contractor has met at least once with and provided bid documents to MBE/WBE contractor associations, (2) construction contracts, and (3) the Developer's MBE/WBE utilization plan, including, without limitation, Schedules C and D. During the Project, the Developer shall submit the documentation required by this Section 10.03 to the monitoring staff of DPD. Failure to submit such documentation on a timely basis, or a determination by DPD, upon analysis of the documentation, that the Developer is not complying with its obligations hereunder shall, upon the delivery of written notice to the Developer, be deemed an Event of Default hereunder. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (x) issue a written demand to the Developer to halt the Project, (y) withhold any further payment of any City Funds to the Developer or the General Contractor, or (z) seek any other remedies against the Developer available at law or in equity.

#### SECTION 11. ENVIRONMENTAL MATTERS

The Developer hereby represents and warrants to the City that the Developer has conducted environmental studies sufficient to conclude that the Project may be constructed, completed and operated in accordance with all Environmental Laws and this Agreement and all Exhibits attached hereto, the Scope Drawings, Plans and Specifications and all amendments thereto, the Planned Development and the Redevelopment Plan.

Without limiting any other provisions hereof, the Developer agrees to indemnify, defend and hold the City harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of the Developer: (i) the presence of any Hazardous Material on or under, or the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Material from (A) all or any portion of the Public

Improvement Property or (B) any other real property in which the Developer, or any person directly or indirectly controlling, controlled by or under common control with the Developer, holds any estate or interest whatsoever (including, without limitation, any real property owned by a land trust in which the beneficial interest is owned, in whole or in part, by the Developer), or (ii) any liens against the Public Improvement 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 Public Improvement Property.

## SECTION 12. INSURANCE

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

(a) Prior to Execution and Delivery of this Agreement

(i) Workers Compensation and Employers Liability 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.

(iii) Property Insurance

All Risk Property Insurance in the amount of the full replacement value of the New ROW Property.

(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 shall have limits of not less than \$2,000,000 per occurrence and \$6,000,000 in the aggregate for

losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

(v) 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 shall have 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) 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 Developer shall submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached) or equivalent prior to Agreement award. 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 contractor, and all subcontractors to provide the insurance required herein or Developer may provide the coverages for the Contractor, or subcontractors. All Contractors and subcontractors shall be subject to the same requirements (Section C) of Developer unless otherwise specified herein.

If the Developer, Contractor or subcontractor desires additional coverages, the Developer, Contractor and each 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.

#### SECTION 13. INDEMNIFICATION

The Developer agrees to indemnify, defend and hold the City harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses (including, without limitation, reasonable attorneys' fees and court costs) suffered or incurred by the City arising from third party actions against the City in connection with (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 the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by the Developer or its agents, employees, contractors or persons acting under the control or at the request of the Developer or (iv) the Developer's failure to cure any misrepresentation in this Agreement or any other agreement relating hereto.

#### 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 (or such subcontractor'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 shall have access to all portions of the Project and the Planned Development 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, provided, however, that after the issuance of the final Certificate under Section 7.01, the occurrence of an event described below in clauses (e), (f), (g), (h), (i) and (j) (unless such criminal proceeding relates to the Project) shall cease to constitute an "Event of Default":

(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 New ROW 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) any permanent cessation of construction of the Phase I Improvements (and, if Developer elects to construct the Phase II Improvements, the Phase II Improvements), it being understood that the absence of material construction work for a period in excess of sixty (60) days shall be deemed to be such a permanent cessation, unless DPD has consented in writing to such inactivity;

(i) the dissolution of the Developer;

(j) the institution in any court of a criminal proceeding (other than a misdemeanor) against the Developer or an entity or individual named in Section 5.06 which is not dismissed within ninety (90) days, or the indictment of the Developer or such entity or individual for any crime (other than a misdemeanor); or

(k) a failure to resolve, to the satisfaction of any applicable City department, any punchlist items raised by such City

department relating to the Project within three months of the establishment of such punchlist item, subject to Section 18.17.

15.02 Remedies. Upon the occurrence of an Event of Default, the City may terminate this Agreement, the City Notes and all related agreements, and may terminate disbursement of City Funds. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to injunctive relief or the specific performance of the agreements contained herein. Notwithstanding the preceding two sentences, if the Event of Default relates only to the Phase I Improvements or the Phase II Improvements (and not the entire Project), the City may only exercise the aforesaid remedies with respect to such portion of the Project and the applicable City Note. For example, if, after the City's issuance of a Certificate for the Phase I Improvements, the Developer starts but fails to complete the Phase II Improvements (and assuming that the Developer has satisfied its MBE/WBE, City residency hiring and prevailing wage requirements, as applied both to the completed Phase I Improvement work and the incomplete Phase II Improvement Work to date, in aggregate), the Developer shall still be entitled to payments with respect to the City Note-Phase I.

Notwithstanding the above paragraph, after the issuance of the final Certificates under Section 7.01, the Developer shall not be required to repay to the City any City Funds received by the Developer unless a Reimbursement Event occurs. The occurrence of any Reimbursement Event shall be deemed to relate to the entire Project for purposes of the limitation set forth in the third sentence of the first paragraph of this Section 15.02.

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 shall have 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 shall have failed to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, the Developer shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day

period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

#### SECTION 16. MORTGAGING OF THE PROJECT

No mortgages or deeds of trust or other encumbrances shall be permitted with respect to the New ROW Property or any portion.

The mortgages or deeds of trust encumbering the Planned Development site are listed on Exhibit J hereto and are referred to herein as the "Existing Mortgages." Any mortgage or deed of trust that the Developer may hereafter elect to execute and record or permit to be recorded against the Planned Development site or any portion thereof is referred to herein as a "New Mortgage." Any such mortgage or deed of trust so executed with the prior written consent of the City is referred to herein as a "Permitted Mortgage."

In the event that the holder of an Existing Mortgage or a Permitted Mortgage shall succeed to the Developer's fee simple interest such mortgaged property or any portion thereof pursuant to the exercise of remedies under a mortgage or deed of trust whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest under this Agreement in accordance with Section 18.15 hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "the Developer" hereunder; provided, however, that, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of the Developer's interest under this Agreement, such party shall have 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 the holder of an Existing Mortgage or a Permitted 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.

#### 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.

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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: Clark/Taylor, L.L.C.  
101 East Erie, Suite 800  
Chicago, Illinois 60611  
Attention: Mike O'Connor

With Copies To: Mr. Andrew Scott  
Alzheimer & Gray  
10 South Wacker Drive  
Chicago, Illinois 60606

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 Exhibits A and F hereto without the consent of any party hereto.

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.

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

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

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

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

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

18.11 Conflict. In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances and/or the Bond Ordinance, if any, such ordinance(s) shall prevail and control.

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

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

18.14 Approval. Wherever this Agreement provides for the approval or consent of the City, DPD or the Commissioner, or any matter is to be to the City's, DPD's or the Commissioner's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City, DPD or the Commissioner in writing and in the reasonable discretion thereof. The Commissioner or other person designated by the Mayor of the City shall act for the City or DPD in making all approvals, consents and determinations of satisfaction, granting the Certificate or otherwise administering this Agreement for the City.

18.15 Assignment. Prior to the issuance by the City to the Developer of a Certificate, the Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City. Notwithstanding the issuance of such Certificates, 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 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. Notwithstanding anything to the contrary in this Section 18.15, the Developer shall have the right to assign the City Note-Acquisition Parcel to the seller of the Wells Street Parcel.

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).

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.

[SIGNATURES APPEAR ON NEXT PAGE]



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.

CLARK/TAYLOR, L.L.C., a Delaware limited liability company

By: CTL Investors, L.L.C., a Delaware limited liability company, as member

By: [Signature]  
Its: [Signature]

By: W.H. Limited Partnership No. 17, an Illinois limited partnership

By: W/H Development Corp., an Illinois corporation, its general partner

By: [Signature]  
Its: [Signature]

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

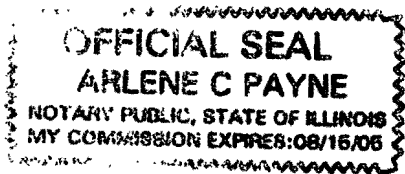
By: [Signature]  
Alicia Mazur Berg  
Commissioner [Signature]

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STATE OF ILLINOIS )  
 ) ss  
COUNTY OF COOK )

I, Arlene C. Payne, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Kevin Doorman personally known to me to be the Member of CTL Investors, L.L.C. (the "Member"), 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 s/he signed, sealed, and delivered said instrument, pursuant to the authority given to her/him, as her/his free and voluntary act and as the free and voluntary act of the Member, on its own behalf, and as member of Clark/Taylor, L.L.C., for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 28<sup>th</sup> day of February, 2002.



Arlene C. Payne  
Notary Public

My Commission Expires 8-15-05

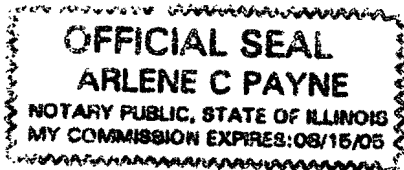
(SEAL)

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

0021366618

I, Arlene C Payne, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that John W. Higgins, personally known to me to be the General Partner of W/H Development Corp. (the "General Partner"), 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 s/he signed, sealed, and delivered said instrument, pursuant to the authority given to her/him, as her/his free and voluntary act and as the free and voluntary act of the General Partner, on its own behalf, and as general partner of W.H. Limited Partnership No. 17, in its capacity as a member of Clark/Taylor, L.L.C., for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 28<sup>th</sup> day of February, 2002.



Arlene C Payne  
Notary Public

My Commission Expires 8-15-05

(SEAL)

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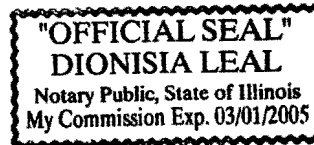
STATE OF ILLINOIS )  
 ) ss  
COUNTY OF COOK )

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

GIVEN under my hand and official seal this 5<sup>th</sup> day of December, 2002.

Dionisia Leal  
Notary Public

My Commission Expires 03/01/05



Redevelopment Project Area Legal Description  
(River South)

A TRACT OF LAND IN THE EAST HALF OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND THE EAST HALF OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE EAST LINE OF STEWART AVE. WITH THE SOUTHEASTERLY LINE OF THE ILLINOIS CENTRAL & GULF RAILROAD LYING IN S. GROVE STREET;

THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID STEWART AVE. TO THE WESTERLY CHANNEL LINE OF THE SOUTH BRANCH OF THE CHICAGO RIVER (PER ORDINANCE PASSED JULY 8<sup>th</sup> 1926);

THENCE NORTHERLY ALONG SAID WESTERLY CHANNEL LINE OF THE SOUTH BRANCH OF THE CHICAGO RIVER (PER ORDINANCE PASSED JULY 8<sup>th</sup> 1926) TO THE POINT OF INTERSECTION OF SAID WESTERLY CHANNEL LINE OF THE SOUTH BRANCH OF THE CHICAGO RIVER WITH THE WESTERLY PROJECTION OF A LINE 122.63 FEET NORTH OF AND PARALLEL WITH THE SOUTHERLY LINE OF BLOCK 85, IN THE SCHOOL SECTION ADDITION TO CHICAGO, BEING A SUBDIVISION OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID SOUTHERLY LINE OF BLOCK 85 BEING ALSO THE NORTHERLY LINE OF TAYLOR ST.;

THENCE EASTERLY ALONG SAID WESTERLY PROJECTION OF, AND A LINE 122.63 FEET NORTH OF AND PARALLEL WITH THE SOUTHERLY LINE OF BLOCK 85 TO THE WESTERLY LINE OF S. WELLS ST.;

THENCE NORTHERLY ALONG THE WESTERLY LINE OF S. WELLS ST. TO THE POINT OF INTERSECTION OF SAID WESTERLY LINE OF S. WELLS ST. WITH THE WESTERLY PROJECTION OF THE SOUTHERLY LINE OF THE NORTH HALF OF LOT 10 IN PARKER AND OTHERS SUBDIVISION OF BLOCK 193 IN SCHOOL ADDITION TO CHICAGO;

THENCE EASTERLY ALONG SAID WESTERLY PROJECTION OF, AND THE SOUTHERLY LINE OF THE NORTH HALF OF LOT 10 IN PARKER AND OTHERS SUBDIVISION OF BLOCK 193 IN SCHOOL ADDITION TO CHICAGO TO THE WESTERLY LINE OF THE PUBLIC ALLEY EAST OF AND ADJOINING LOTS 3, 4, 9, AND 10 IN PARKER AND OTHERS SUBDIVISION;

THENCE NORTHERLY ALONG THE WESTERLY LINE OF SAID PUBLIC ALLEY EAST OF AND ADJOINING LOTS 3, 4, 9, AND 10 IN PARKER AND OTHERS SUBDIVISION AND THE NORTHERLY PROJECTION OF SAID WESTERLY LINE TO THE NORTHERLY LINE OF W. POLK ST.;

THENCE EASTERLY ALONG THE NORTHERLY LINE OF W. POLK ST. TO THE WESTERLY LINE OF SHERMAN ST.

THENCE NORTHERLY ALONG THE WESTERLY LINE OF SHERMAN ST. TO THE

**SOUTHERLY LINE OF W. HARRISON ST.**

**THENCE WESTERLY ALONG THE SOUTHERLY LINE OF W. HARRISON ST. TO THE EASTERLY LINE OF S. WELLS ST.**

**THENCE SOUTHERLY ALONG THE EASTERLY LINE OF S. WELLS ST. TO THE SOUTHERLY LINE OF W. POLK ST.**

**THENCE WESTERLY ALONG THE SOUTHERLY LINE OF W. POLK ST. AND THE WESTERLY PROJECTION OF SAID SOUTHERLY LINE OF W. POLK ST. TO THE WESTERLY CHANNEL LINE OF THE SOUTH BRANCH OF THE CHICAGO RIVER (PER ORDINANCE PASSED JULY 8th 1926).**

**THENCE NORTHERLY ALONG SAID WESTERLY CHANNEL LINE OF THE SOUTH BRANCH OF THE CHICAGO RIVER (PER ORDINANCE PASSED JULY 8th 1926) TO THE NORTHERLY LINE OF W. VAN BUREN ST.**

**THENCE EASTERLY ALONG THE NORTHERLY LINE OF W. VAN BUREN ST. TO THE POINT OF INTERSECTION OF SAID NORTHERLY LINE WITH THE NORTHERLY PROJECTION OF THE EASTERLY LINE OF THE PUBLIC ALLEY LYING EAST OF S. WELLS ST., SAID EASTERLY LINE OF THE PUBLIC ALLEY BEING 112 FEET EAST OF THE EAST LINE OF S. WELLS ST.;**

**THENCE SOUTHERLY ALONG SAID NORTHERLY PROJECTION AND THE EASTERLY LINE OF THE PUBLIC ALLEY LYING EAST OF S. WELLS ST. TO THE SOUTHERLY LINE OF CONGRESS PARKWAY;**

**THENCE EASTERLY ALONG THE SOUTHERLY LINE OF CONGRESS PARKWAY TO THE EASTERLY LINE OF FEDERAL ST.**

**THENCE SOUTHERLY ALONG THE EASTERLY LINE OF FEDERAL ST. AND THE SOUTHERLY PROJECTION OF SAID EASTERLY LINE OF FEDERAL ST. TO THE SOUTHERLY LINE OF W. HARRISON ST.**

**THENCE WESTERLY ALONG THE SOUTHERLY LINE OF W. HARRISON ST. TO THE EASTERLY LINE OF THE PUBLIC ALLEY LYING WEST OF FEDERAL ST.**

**THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID THE PUBLIC ALLEY LYING WEST OF FEDERAL ST. TO THE NORTH LINE OF LOT 2 IN J. C. GOODHUE'S SUBDIVISION OF BLOCK 126 OF THE SCHOOL SECTION ADDITION TO CHICAGO;**

**THENCE WESTERLY ALONG THE NORTH LINE OF LOT 2 IN J. C. GOODHUE'S SUBDIVISION OF BLOCK 126 OF THE SCHOOL SECTION ADDITION TO CHICAGO TO THE NORTH WEST CORNER THEREOF;**

**THENCE SOUTHERLY ALONG THE WESTERLY LINE OF LOTS 2, 5, 8, 11, 14, 17, 20, 23 IN SAID J. C. GOODHUE'S SUBDIVISION OF BLOCK 126 OF THE SCHOOL SECTION ADDITION TO CHICAGO AND THE SOUTHERLY EXTENSION OF SAID LINE TO THE SOUTHERLY LINE OF W. POLK ST.**

**THENCE WESTERLY ALONG THE SOUTHERLY LINE OF W. POLK ST. TO THE EASTERLY OF S. CLARK ST.**

THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SOUTH CLARK ST. TO THE NORTHERLY LINE OF W. 15th ST.

THENCE EASTERLY ALONG THE NORTHERLY LINE OF W. 15th ST. TO THE WESTERLY LINE OF S. STATE ST.

THENCE SOUTHERLY ALONG THE WESTERLY LINE OF S. STATE ST. TO THE SOUTHERLY LINE OF W. CULLERTON ST.

THENCE WESTERLY ALONG THE SOUTHERLY LINE OF W. CULLERTON ST. TO THE SOUTHERLY PROJECTION OF THE EASTERLY LINE OF BLOCK 29 IN CANAL TRUSTEES' NEW SUBDIVISION OF BLOCKS IN THE EAST FRACTIONAL QUARTER OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN;

THENCE NORTHERLY ALONG SAID SOUTHERLY PROJECTION OF THE EASTERLY LINE OF BLOCK 29 AND THE EASTERLY LINE OF BLOCK 29, BEING ALSO THE WESTERLY LINE OF S. FEDERAL AVE., TO THE SOUTHERLY LINE OF W. 19th ST.

THENCE WESTERLY ALONG THE SOUTHERLY LINE OF W. 19th ST. TO THE EASTERLY LINE OF S. CLARK ST.;

THENCE SOUTHERLY ALONG THE EASTERLY LINE OF S. CLARK ST. TO THE SOUTHERLY LINE OF CULLERTON ST. AS PROJECTED ACROSS ARCHER AVE.

THENCE WESTERLY ALONG SAID SOUTHERLY LINE OF CULLERTON ST. AS PROJECTED ACROSS ARCHER AVE. TO A POINT 79 FEET WESTERLY OF THE NORTH EAST CORNER OF BLOCK 36 IN CANAL TRUSTEES' NEW SUBDIVISION OF BLOCKS IN THE EAST FRACTIONAL QUARTER OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN;

THENCE NORTHERLY ALONG A STRAIGHT LINE TO A POINT ON THE SOUTHERLY LINE OF W. 18th ST. AT A POINT 78 FEET WESTERLY OF THE NORTH EAST CORNER OF BLOCK 18 IN CANAL TRUSTEES' NEW SUBDIVISION OF BLOCKS IN THE EAST FRACTIONAL QUARTER OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN;

THENCE WESTERLY ALONG THE SOUTHERLY LINE OF W. 18th ST. TO THE SOUTHEASTERLY LINE OF THE ILLINOIS CENTRAL & GULF RAILROAD LYING IN S. GROVE STREET;

THENCE SOUTHERLY ALONG THE SOUTHEASTERLY LINE OF THE ILLINOIS CENTRAL & GULF RAILROAD LYING IN S. GROVE STREET TO THE EASTERLY LINE OF S. STEWART ST., BEING ALSO THE POINT OF BEGINNING.

ALL IN THE CITY OF CHICAGO, COOK COUNTY, ILLINOIS.

EXHIBIT B

**Legal Description of Planned Development Property**  
(January 20, 1999 Journal of Proceedings Page 88332)

The area bounded by West Polk Street; South LaSalle Street; a line 258.501 feet south of and approximately parallel to West Polk Street; a line 125.683 east of and approximately parallel to South LaSalle Street; a line 398.046 feet north of and approximately parallel to West Taylor Street; South Clark Street; West Roosevelt Road; a line 733.363 feet west of and approximately parallel to South Clark Street; South Wells Street; a line 323.561 feet north of and approximately parallel to West Taylor Street; and the alley next east of South Wells Street



**PHASE I IMPROVEMENTS**

- Construction and dedication of a 70-foot public right of way, including curbs, gutters, sidewalks, parkways, street lights and utilities on South Wells Street between West Taylor Street and West Roosevelt Road.
- Construction of a temporary bus turnaround at the south end of the South Wells Street extension; provided, however, that Developer will not be obligated to construct the turnaround unless and until the Chicago Transit Authority provides service down South Wells Street and notifies Developer of its intention to provide such service.
- Construction of improvements at the southern intersection of West Polk and South LaSalle Streets, including a sidewalk, curb and gutter (to close South LaSalle Street following its vacation).
- Construction and dedication of a 20-foot alley between South Wells Street and the alley next east of South Wells Street (in a location as depicted in Exhibit C).
- Construction and dedication of a 5-foot strip of land (in a location as depicted on Exhibit C) between the aforementioned 20-foot alley and the north line of West Taylor Street.
- Construction of improvements to South Wells Street from the north line of West Taylor Street to a point approximately 500 feet north of West Taylor Street, including curbs, gutters, additional pavement to meet existing pavement, sidewalks (on the east side of South Wells Street only) and landscaping.

**EXHIBIT C-2****PHASE II IMPROVEMENTS**

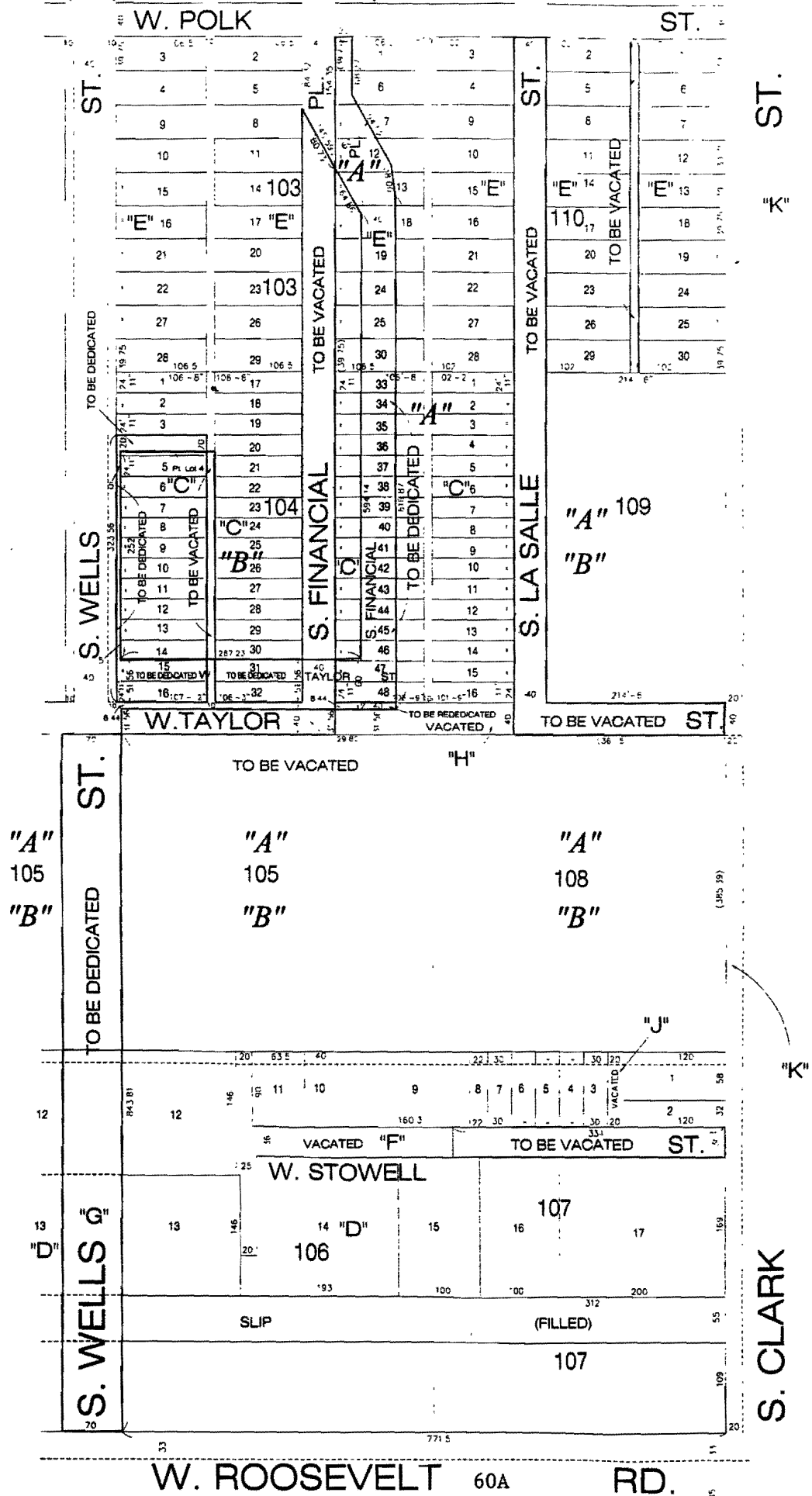
- Construction of improvements to West Polk Street between the Metra Tracks and South Wells Street, including construction and installations of curbs, gutters, sidewalks, parkways and landscaping.
- Installation of traffic signals at the Wells/Taylor, Polk/Wells and Polk/Financial Place intersections, if warranted.
- To the extent necessary, construction and dedication of improvements to West Taylor Street, including curbs, gutters, sidewalks, parkways, street lights and utilities between the relocated South Financial Place and South Wells Street.
- Construction and dedication of a public right of way, including curbs, gutters, sidewalks, parkways, street lights and utilities for a relocated South Financial Place between West Polk Street and West Taylor Street; said relocated South Financial Place right of way to be 60 feet wide from the south line of West Polk Street and then narrowing to 40 feet at a line approximately 198.75 feet south of and parallel to the south line of West Polk Street.

**EXHIBIT D-1****RIGHTS OF WAY TO BE VACATED**

1. South LaSalle Street between West Polk Street and West Taylor Street;
2. West Stowell Street between South Clark Street and the Metra Right-of-Way;
3. The alley next west of South Clark Street between West Polk Street and a line approximately 398 feet north of West Taylor Street;
4. West Taylor Street between South Clark Street and the Metra Right-of-Way;
5. South Financial Place between West Polk Street and West Taylor Street;
6. The alley next east of South Wells Street from a line approximately 393 feet south of West Polk Street and West Taylor Street; and
7. The south 31.56 feet of West Taylor Street between existing South Financial Place and South Wells Street.

**RIGHTS OF WAY TO BE DEDICATED**

1. An extension of South Wells Street beginning at the south line of West Taylor Street and extending to a point on the north line of West Roosevelt Road;
2. An approximately 5 foot x 283 foot strip of land to the east of the east line of South Wells Street and north of the north line of West Taylor Street;
3. A 20 foot east-west alley (to be located approximately 283 feet north of West Taylor Street) to allow for ingress/egress of the alley next east of South Wells Street;
4. A relocated South Financial Place (the east edge of which will be located immediately adjacent to the west edge of the Metra Right-of-Way) to replace the vacated South Financial Place; and
5. Approximately 51.56 feet north of the existing north line of West Taylor Street between newly dedicated South Financial Place and South Wells Street.



"A"

School Section Addition to Chicago in Section 16-39-14.

00213666 18

"B"

E.K. Hubbard's Subdivision of Block's 5, 60, 63, 65, 66, 75, 85, 104, 105, 108, 109, 111 and 112 in School Section Addition to Chicago in Section 16-39-14.

Note: An Act (passed February 16, 1857) to legalize a Subdivision E.K. Hubbard of Block's 5, 60, 63, 65, 66, 75, 85, 104, 105, 108, 109, 111, 112 and 115 in School Section etc. making the Subdivision and description thereof legal and valid in any Court of record. Block 79 was not legalized by this act.

"C"

W.S. Gurnee's Subdivision of Block 104 and the W. 1/2 of Block 109, in School Section Addition to Chicago in Section 16-39-14 (also part of Block 85 etc. for widening of Wells St. and Clark St.)

"D"

Stowell's Subdivision of Blocks 106 and 107 in School Section Addition to Chicago in Section 16-39-14. Adams and Parker's Subdivision of Blocks 103 and 110 of School Section Addition to Chicago in Section 16-39-14.

"F"

Alley and part of Stowell St. Vacated February 6, 1888.

"G"

Viaduct provided for under Condemnation proceedings February 28, 1889. Superior Court No. 121132.

"H"

Vacated by Ordinance Passed February 11, 1901 Pg. No. 2153.

"J"

Vacated by Ordinance Passed May 31, 1869.

"K"

Clark St. is Widened S. from N.W. corner of Block 125, in School Section Addition etc. to Archer Turnpike by Order of Council Passed May 15, 1846. Assmt. Confirmed February 1, 1847.

EXHIBIT E

0021366618

TIF-Funded Improvements

Property assembly costs, including acquisition and site preparation and other costs specified in 65 ILCS 5/11-74.4-3(q) (2)	\$1,616,793
Costs of construction of public works or improvements	\$7,000,000

0021366618

EXHIBIT F

River South Redevelopment Plan

[NOT ATTACHED FOR RECORDING PURPOSES]

0021366618

EXHIBIT G-1

Form of City Note

[NOT ATTACHED FOR RECORDING PURPOSES]



00213666.8

EXHIBIT G-2

Form of City Note

[NOT ATTACHED FOR RECORDING PURPOSES]

00213666.8

EXHIBIT H

Construction Contract

[NOT ATTACHED FOR RECORDING PURPOSES; TO BE DELIVERED POST-CLOSING PURSUANT TO POST-CLOSING MATTERS LETTER]

0021366618

EXHIBIT I-1

**LASALLE PARK  
INFRASTRUCTURE IMPROVEMENT BUDGET**

<u>Use of Funds</u>	<u>Phase I</u>	<u>Phase II</u>
Property Acquisition	\$1,225,200	\$0
Wells Street construction including construction and installation of sidewalks, parkways and street lights).	\$783,700	\$0
Financial Place & Taylor Street construction (including construction and installation of sidewalks, parkways and street lights).	\$0	\$1,033,000
Traffic Signals		\$360,000
Construction of sewer & water improvements	\$314,000	\$1,806,500
Street Scape	\$218,981	\$218,982
CTA turnaround	\$50,000	\$0
Excess facility, charges (i.e., utility relocations)	\$125,000	\$375,000
Construction Management	\$83,750	\$117,660
Legal/engineering/surveys/ soil testing/ inspections	\$743,845	\$116,155
Contingency	\$362,245	\$589,965
Performance Bond	<u>\$ 27,808</u>	<u>\$ 65,002</u>
Total:	\$3,934,529	\$4, 682,264

**LASALLE PARK  
M/WBE INFRASTRUCTURE IMPROVEMENT BUDGET**

Phase I        \$2,319,276 plus \$362,245 contingency (to the extent used)

Phase II       \$4,027,297 plus \$589,965 contingency (to the extent used)

Total           \$6,346,573 plus \$952,210 contingency (to the extent used)

(Land and bonding costs have been excluded from the overall Project Budget)

**Permitted Liens**

1. Liens or encumbrances against the Public Improvement 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.



**C. Accrued Interest.** Interest shall accrue on the Indebtedness from the date of the Certificate of Expenditure acknowledging such additional Indebtedness in accordance with the terms of the City Note-Phase [I][II]. Attached as Schedule 1 is a true, correct and complete computation of the accrued interest to date.

1. Enter sum of amounts on Schedule 1: \$ \_\_\_\_\_

**D. Prior City Payments.** To date, the City has made the following aggregate payments of principal and interest on the City Note-Phase [I][II]:

1. Principal paid to date: \$ \_\_\_\_\_

2. Interest paid to date: \$ \_\_\_\_\_

**E. Amounts Due and Payable Under City Note.** Based the City's payments to date, the unpaid amount due under the City Note-Phase [I][II] as of the date hereof is:

1. Unpaid Principal (Line B.2 minus Line D.1): \$ \_\_\_\_\_

2. Unpaid Interest (Line C.1 minus Line D.2): \$ \_\_\_\_\_

**F. Developer Reimbursement Request.** The Developer requests a payment under the City Note-Phase [I][II] in the amount of \$ \_\_\_\_\_.

**G. Available Incremental Taxes.** [THIS SECTION TO BE COMPLETED BY THE CITY BASED ON THE PRIORITIES SET FORTH IN SECTION 4.03 OF THE REDEVELOPMENT AGREEMENT]. As of December 1, \_\_\_\_\_, the amount of Available Incremental Taxes was \$ \_\_\_\_\_. Of such amount, \$ \_\_\_\_\_ is available to make payments with respect to the City Note-Phase [I][II]. The City hereby approves a payment to the Developer in an amount equal to the lesser of the amount set forth in the preceding sentence, to be applied as follows:

1. Amount to be applied to the payment of previously accrued and unpaid interest: \$ \_\_\_\_\_

2. Amount to be applied to the payment of current accrued interest: \$ \_\_\_\_\_

3. Amount to be applied to the payment of principal: \$ \_\_\_\_\_

H. Unpaid Principal and Interest Under City Note. [THIS SECTION TO BE COMPLETED BY CITY] After application of the payment in accordance with Paragraph G, the unpaid principal and interest under the City Note-Phase [I][II] shall be as follows:

1. Unpaid Principal (Line E.1 minus Line G.3): \$ \_\_\_\_\_
2. Unpaid Interest (Line E.2 minus Lines G.1 and G.2): \$ \_\_\_\_\_

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

1. The total amount of the payment request represents the actual amount previously paid for acquisition costs or amounts paid to general contractors, subcontractors, suppliers and other third parties who have performed work on or provided materials for the Phase [I][II] Improvements comprising TIF-Funded Improvements, which costs, work and materials have not been previously reimbursed by the City. The Developer has approved all work and materials and such work and materials conform to the Plans and Specifications.

2. The representations and warranties contained in the Agreement are true and correct and the Developer is in compliance with all covenants contained therein.

3. 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.

4. No act or omission 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 have the meanings given such terms in the Agreement.

[SIGNATURE APPEARS ON NEXT PAGE]



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0021360

CLARK/TAYLOR, L.L.C.,  
a Delaware limited liability  
company

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

Subscribed and sworn before me this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

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

Agreed and accepted:

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

\_\_\_\_\_  
[Deputy] Commissioner