

Contract Summary Sheet

Contract (PO) Number: 21748

Specification Number: 83163

Name of Contractor: 79TH STREET LIMITED PARTNERSHIP

City Department: DEPT OF COMMUNITY DEVELOPMENT

Title of Contract: Redevelopment Agreement: 2815 W. 79th St. and 2751-57 W. 79th St.

Term of Contract: Start Date: 8/25/2009

End Date: 12/31/2024

Dollar Amount of Contract (or maximum compensation if a Term Agreement) (DUR):
\$2,950,000.00

Brief Description of Work: Redevelopment Agreement: 2815 W. 79th St. and 2751-57 W. 79th St.

Procurement Services Contract Area: COMPTROLLER-OTHER

Vendor Number: 52855031

Submission Date:

FEB 9 2010

PROCURER'S OFFICE
ROOM 403-1001
2010 FEB -8 AM 11:58
EB

The following is said ordinance as passed:

WHEREAS, The City of Chicago (the "City"), a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois, has heretofore found and does hereby find that there exists within the City a serious shortage of decent, safe and sanitary rental housing available to persons of low- and moderate-income; and

WHEREAS, The City has determined that the continuance of a shortage of affordable rental housing is harmful to the health, prosperity, economic stability and general welfare of the City; and

WHEREAS, The City has certain funds available from a variety of funding sources ("Multi-Family Program Funds") to make loans and grants for the development of multi-family residential housing to increase the number of families served with decent, safe, sanitary and affordable housing and to expand the long-term supply of affordable housing, and such Multi-Family Program Funds are administered by the City's Department of Community Development ("D.C.D."); and

WHEREAS, D.C.D. has preliminarily reviewed and approved the making of a loan to 79th Street Limited Partnership, an Illinois limited partnership (the "Borrower"), the general partners (collectively, the "General Partner") of which are (1) NHS Wrightwood, Inc., an Illinois corporation the sole owner of which is NHS Redevelopment Corporation, an Illinois not-for-profit corporation ("NHSRC"), and (2) 79th Street Development L.L.C., an Illinois limited liability company, ("79th Street Development", and together with the Borrower, the "Developer"), the sole member of which is 3 Diamond Development L.L.C., an Illinois limited liability company, the members of which are Ben Klein, Neal Stein and David Porush, as individuals, in an amount not to exceed Six Million Dollars (\$6,000,000) (the "Loan"), to be funded from Multi-Family Program Funds for certain eligible costs of the Project (as described in Exhibit A attached hereto and made a part hereof) pursuant to the terms and conditions set forth in Exhibit A; and

WHEREAS, The City has established the Community Development Commission ("Commission") to, among other things, designate redevelopment areas and approve redevelopment plans, and recommend the sale of parcels located in redevelopment areas, subject to the approval of the City Council of the City (the "City Council"); and

WHEREAS, Pursuant to an ordinance adopted by the City Council on October 3, 2001, and published at pages 67675 through 67685 in the *Journal of the Proceedings of the City Council of the City of Chicago* (the "*Journal*") of such date, a certain redevelopment plan and project (the "Redevelopment Plan") for the 79th Street/Southwest Highway Redevelopment Project Area (the "Redevelopment Area") was approved pursuant to the Illinois Tax Increment Allocation-Redevelopment Act, as amended (65 ILCS 5/11-74.4-1, et seq.) (the "T.I.F. Act"); and

WHEREAS, Pursuant to an ordinance adopted by the City Council on October 3, 2001, and published at pages 67786 through 67794 in the *Journal* of such date, the Redevelopment Area was designated as a redevelopment project area pursuant to the T.I.F. Act; and

WHEREAS, Pursuant to an ordinance (the "T.I.F. Ordinance") adopted by the City Council on October 3, 2001, and published at pages 67795 through 67806 in the *Journal* of such date, tax increment allocation financing was adopted pursuant to the Act as a means of financing certain redevelopment project costs (as defined in the Act) in the Redevelopment Area incurred pursuant to the Redevelopment Plan; and

WHEREAS, The facilities comprising the Project (as described in Exhibit A) are located in the Redevelopment Area (such facilities referred to as the "T.I.F. Development"); and

WHEREAS, By Resolution Number 09-CDC-26, adopted on April 14, 2009 (the "C.D.C. Resolution"), the Commission has designated that the Developer be designated as developer for the T.I.F. Development and that D.C.D. be authorized to negotiate, execute and deliver on behalf of the City a redevelopment agreement with the Developer for the T.I.F. Development (the "Redevelopment Agreement"), substantially in the form attached hereto as Exhibit C; and

WHEREAS, The T.I.F. Development is necessary for the redevelopment of the Redevelopment Area; and

WHEREAS, The Developer will be obligated to undertake the T.I.F. Development in accordance with the terms and conditions of the Redevelopment Agreement, with such T.I.F. Development to be financed in part by certain pledged incremental taxes deposited from time to time in the Special Tax Allocation Fund for the Area (as defined in the T.I.F. Ordinance; herein defined as the "Fund") pursuant to Section 5/11-74.4-8(b) of the Act ("Incremental Taxes"); and

WHEREAS, One Mortgage Partner's Corp., a Vermont corporation, or another entity acceptable to the Authorized Officer (as hereinafter defined), may make a loan or grant to the Borrower, NHSRC, or to another entity affiliated with the Borrower, of Federal Home Loan Bank Affordable Housing Program funds in the approximate amount of Three Hundred Thousand Dollars (\$300,000), and such loan or grant may be loaned to the Borrower directly, or by NHSRC or such other affiliated entity, and secured by a mortgage junior to the lien of the mortgage securing the Loan, but the making of such loan or grant is not a condition to the making of the Loan; and

WHEREAS, It is anticipated that Enterprise Mortgage Investments, Inc., a Maryland corporation ("E.M.I.") shall make a loan to the Borrower in connection with the Project as described in Exhibit A (the "E.M.I. Loan"), but that such E.M.I. Loan shall not be made at the time of the closing of the Loan; and

WHEREAS, It is further anticipated that to assure E.M.I. that the Borrower will complete the Project and therefore enter into the E.M.I. Loan, E.M.I. may require that the Borrower deliver a certain delivery assurance mortgage (the "Delivery Assurance Mortgage") to secure certain breakage fees required of the Borrower by E.M.I., and that such Delivery Assurance Mortgage shall be junior to the lien of the mortgage securing the Loan, but that the making of such Delivery Assurance Mortgage is not a condition to the making of the Loan; now, therefore,

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

SECTION 1. The above recitals are expressly incorporated in and made a part of this ordinance as though fully set forth herein.

SECTION 2. Upon the approval and availability of the Additional Financing as shown in Exhibit A hereto, the Commissioner of D.C.D. (the "Commissioner") and a designee of the Commissioner (collectively, the "Authorized Officer") are each hereby authorized, subject to approval by the Corporation Counsel, to enter into and execute such agreements and instruments, and perform any and all acts as shall be necessary or advisable in connection with the implementation of the Loan. The Authorized Officer is hereby authorized, subject to the approval of the Corporation Counsel, to negotiate any and all terms and provisions in connection with the Loan which do not substantially modify the terms described in Exhibit A hereto. Upon the execution and receipt of proper documentation, the Authorized Officer is hereby authorized to disburse the proceeds of the Loan to the Borrower.

SECTION 3. In connection with the Loan by the City to the Borrower, the City shall waive those certain fees, if applicable, imposed by the City with respect to the Project (as described in Exhibit A hereto) and as more fully described in Exhibit B attached hereto and made a part hereof. The Project shall be deemed to qualify as "Affordable Housing" for purposes of Chapter 16-18 of the Municipal Code of Chicago. Section 2-45-110 of the Municipal Code of Chicago shall not apply to the Project or the Property.

SECTION 4. The Authorized Officer is hereby authorized, with the approval of the City's Corporation Counsel as to form and legality, to negotiate, execute and deliver the Redevelopment Agreement and such other supporting documents as may be necessary to carry out and comply with the provisions of the Redevelopment Agreement, with such changes, deletions and insertions as shall be approved by the persons executing the Redevelopment Agreement.

SECTION 5. The City Council hereby finds that the City is authorized to pay Two Million Nine Hundred Fifty Thousand Dollars (\$2,950,000) from Incremental Taxes deposited in the General Account of the Fund (the "Excess Incremental Taxes") as the City Funds (as defined in the Redevelopment Agreement) to finance a portion of the eligible costs included within the Project. The City is authorized to pay from Excess Incremental Taxes an amount up to Two Million Nine Hundred Fifty Thousand Dollars (\$2,950,000) as the City Funds as set forth in the Redevelopment Agreement. The City Funds are hereby appropriated for the purposes set forth in this Section 5.

SECTION 6. To the extent that any ordinance, resolution, rule, order or provision of the Municipal Code of Chicago, or part thereof, is in conflict with the provisions of this ordinance, the provisions of this ordinance shall control. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance.

SECTION 7. This ordinance shall be effective as of the date of its passage and approval.



Doc#: 0924310032 Fee: \$170.00
 Eugene "Gene" Moore RHSP Fee: \$10.00
 Cook County Recorder of Deeds
 Date: 08/31/2009 11:25 AM Pg: 1 of 68

PROJECT: 79TH STREET FILE
 ROOM: 405-113-0001
 28 FEB - 8 AM 11:59

(5)

211857

This agreement was prepared by and
~~after recording return to~~
 Sandra N. Fried, Esq.
 City of Chicago Law Department
 121 North LaSalle Street, Room 600
 Chicago, IL 60602

Wrightwood Senior Apartments Redevelopment Agreement

This Wrightwood Senior Apartments Redevelopment Agreement (this "Agreement") is made as of this 25th day of August, 2009, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Community Development ("DCD"), 79th Street Limited Partnership, an Illinois limited partnership ("79th Street Limited Partnership"), and 79th Street Development LLC, an Illinois limited liability company ("79th Street LLC" and collectively with 79th Street Limited Partnership, the "Developer").

RECITALS

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

B. Statutory Authority: The City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as amended from time to time (the "Act"), to finance projects that eradicate blighted conditions and conservation area factors through the use of tax increment allocation financing for redevelopment projects.

C. City Council Authority: To induce redevelopment pursuant to the Act, the City Council of the City (the "City Council") adopted the following ordinances on October 3, 2001: (1)

Box 430

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"Approval of Tax Increment Redevelopment Plan for 79th Street/Southwest Highway Redevelopment Project Area;" (2) "Designation of 79th Street/Southwest Highway Redevelopment Area as Tax Increment Financing District;" and (3) "Adoption of Tax Increment Allocation Financing for 79th Street/Southwest Highway 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 79th Street Limited Partnership has purchased (the "Acquisition") certain property located within the Redevelopment Area generally at 2815 West 79th Street and 2751-57 West 79th Street in the City and legally described on **Exhibit B** hereto (the "Property"), and, within the time frames set forth in Section 3.01 hereof, shall commence and complete the following activities (the "Project"): construction of a six-story rental elevator building (the "Building") on the Property, which will include a congregate rental community for seniors (age 62 or older), with 85 rental units, comprised of 76 affordable units (the "Affordable Units") and nine market-rate units (the "Market Rate Units" and, together with the Affordable Units, the "Units"), which will offer approximately 74,886 square feet of space, and no fewer than 40 parking spaces (the "Parking") free of charge on a first-come first-served basis (the Building and the Parking are collectively, the "Facility"). The Building shall have a green roof measuring approximately 100% of the Building's net roof area (i.e., exclusive of mechanical penthouses, skylights, roof-mounted air handling equipment, solar panels, etc.), solar hot water and Energy Star H.V.A.C. systems, Energy Star appliances, and a highly efficient lighting system. The Parking shall have permeable pavers. The following standard features will be offered at no additional fee: emergency pull-cords in the bedrooms and bathrooms; electronically-monitored up-and-about check-in system; wall-to-wall carpeting; mini-blinds; individually controlled heating and cooling; and full kitchens. Common area amenities will include laundry facilities on every floor and a main floor multi-purpose activity and dining room, and additional lounges with additional library, computer and fitness amenities located in the Building. The Facility and related improvements (including but not limited to those TIF-Funded Improvements as defined below and set forth on **Exhibit C**) are collectively referred to herein as the "Project." The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

E. Redevelopment Plan: The Project is located in the Redevelopment Area and will be carried out in accordance with this Agreement and the City of Chicago 79th Street/Southwest Highway Tax Increment Financing Redevelopment Plan (the "Redevelopment Plan") attached hereto as **Exhibit D**.

F. City Financing: The City agrees to use, in the amounts set forth in **Section 4.03(iii)** hereof, 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. The City, as of the Closing Date, shall allocate and appropriate the amounts set forth in **Section 4.03(iii)** for payment of the Redevelopment Project Costs of the Project.

In addition, the City may, in its discretion, issue tax increment allocation bonds ("Bonds") secured by Incremental Taxes (as defined below) pursuant to an ordinance at a later date as described in **Section 8.05** hereof, the proceeds of which may be used to pay for the costs of the TIF-Funded Improvements not previously paid for from Incremental Taxes, or in order to reimburse the City for the costs of TIF-Funded Improvements.

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

SECTION 1. RECITALS

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

SECTION 2. DEFINITIONS

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

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

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

"Affordable Units" shall have the meaning set forth in the Recitals hereof.

"Annual Report" shall mean the report described in **Section 8.21** hereof.

"Available Incremental Taxes" shall mean the 90% of the Incremental Taxes then on deposit in the 79th Street/Southwest Highway TIF Fund as adjusted to reflect the amount of the City Fee.

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

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

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

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

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

"City Fee" shall have the meaning set forth for such term in **Section 4.05(c)** hereof.

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

"City Housing Loan" shall mean the loan of funds by the City to the Developer in connection with the Project in the amount as set forth in **Section 4.01** hereof.

"Closing Date" shall mean August 28, 2009.

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

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

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

"Environmental Laws" shall mean any and all Laws 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 1801 *et seq.*); (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 *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, including but not limited to the Municipal Code of Chicago, Sections 7-28-390, 7-28-440, 11-4-1410, 11-4-1420, 11-4-1450, 11-4-1500, 11-4-1530, 11-4-1550, or 11-4-1560.

"Equity" shall mean funds of the Developer (other than funds derived from Lender Financing) 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, with respect to each construction phase undertaken, the construction escrow agreement to be entered into by the Title Company (or an affiliate of, or Title Services, Inc. as an agent of, the Title Company), the General Contractor, the Developer, the Developer's lender(s) and the City, substantially in the form of **Exhibit L** attached hereto, which shall govern the funding of the Equity, the Lender Financing, and the City Funds.

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

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

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

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

"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, lead-bearing substance 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 79th Street/Southwest Highway TIF Fund established to pay Redevelopment Project Costs and obligations incurred in the payment thereof.

"Laws" shall mean all applicable federal, state, local or other laws (including common law), statutes, codes, ordinances, rules, regulations or other requirements, now or hereafter in effect, as amended or supplemented from time to time, and any applicable judicial or administrative interpretation thereof, including any applicable judicial or administrative orders, consent decrees or judgments, including, without limitation, Sections 7-28 and 11-4 of the Municipal Code of Chicago relating to waste disposal.

"Lender" shall mean any provider of Lender Financing.

"Lender Financing" shall mean funds borrowed by either one of the Developer from any lender to fund costs of, and available to pay for, the Project, in the amount set forth in **Section 4.01** hereof.

"Losses" shall mean any and all debts, liens, claims, actions, causes of action, suits, demands, complaints, legal or administrative proceedings, losses, damages, assessments, obligations, liabilities, executions, judgments, amounts paid in settlement, arbitration or mediation awards, interest, fines, penalties, costs, expenses, and disbursements of any kind or nature whatsoever (including, without limitation, Remediation Costs, reasonable attorneys' fees and expenses, consultants' fees and expenses and court costs).

"Market Rate Units" shall have the meaning set forth in the Recitals hereof.

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

"MBE/WBE Budget" shall mean the budget as described in **Section 10.03**.

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

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

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

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

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

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

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

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

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

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

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

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

Remediation Costs shall mean governmental or regulatory body response costs, natural resource damages, property damages, and the costs of any investigation, cleanup, monitoring, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision or other third party in connection or associated with the Property or any improvements, facilities or operations located or formerly located thereon.

Requisition Form shall mean the document, in the form attached hereto as **Exhibit H**, to be delivered by the Developer to DCD pursuant to **Section 4.03** of this Agreement

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

79th Street/Southwest Highway 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.

Survey shall mean a Class A plat of survey in the most recently revised form of ALTA/ACSM land title survey of the Property dated within 75 days prior to the Closing Date, acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State of Illinois, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and updates thereof to reflect improvements to the Property in connection with the construction of the Facility and related improvements as required by the City or Lender).

Term of the Agreement shall mean the period of time commencing on the Closing Date and ending on December 31, 2024, the date on which the Redevelopment Area is no longer in effect.

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

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

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

"Title Company" shall mean Commonwealth Land Title Insurance Company.

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

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

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

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

SECTION 3. THE PROJECT

3.01 The Project. With respect to the Facility, the Developer shall, pursuant to the Plans and Specifications and subject to the provisions of **Section 18.17** hereof: (i) commence construction no later than October 1, 2009; and (ii) complete construction no later than October 31, 2010.

3.02 Scope Drawings and Plans and Specifications. The Developer has delivered the Scope Drawings and Plans and Specifications to DCD and DCD has approved same. After such initial approval, subsequent proposed changes to the Scope Drawings or Plans and Specifications shall be submitted to DCD 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 in effect on the date of this Agreement and all applicable Laws. The Developer shall submit all necessary documents to the City's Building Department, Department of Transportation and such other City departments or governmental authorities as may be necessary to acquire building permits and other required approvals for the Project.

3.03 Project Budget. The Developer has furnished to DCD, and DCD has approved, a Project Budget showing total costs for the Project in an amount not less than Twenty-One Million Four Hundred Eighty-Nine Thousand Four Hundred Thirty-Seven Dollars and 00/100 (\$21,489,437). The Developer hereby certifies to the City that (a) the Lender Financing and Equity described in **Section 4.02** hereof, shall be sufficient to complete the Project; and (b) the Project Budget is true,

correct and complete in all material respects. The Developer shall promptly deliver to DCD certified copies of any Change Orders with respect to the Project Budget for approval pursuant to **Section 3.04** hereof.

3.04 Change Orders. All Change Orders (and documentation substantiating the need and identifying the source of funding therefor) that individually or in the aggregate (a) reduce the square footage of the Building or the Parking, (b) result in a delay of completion of the Project in excess of 90 days, (c) changes the basic use of the Project, or (d) permanently increase or decrease any line item in the Project Budget must be submitted by the Developer to DCD for DCD's prior written approval. The Developer shall not authorize or permit the performance of any work relating to any Change Order described in (a), (b), (c) or (d) above, or the furnishing of materials in connection therewith, prior to the receipt by the Developer of DCD's written approval. The Construction Contract, and each contract between the General Contractor and any subcontractor, shall contain a provision to this effect. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds which the City has pledged pursuant to this Agreement or provide any other additional assistance to the Developer.

3.05 DCD Approval. Any approval granted by DCD 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 DCD pursuant to this Agreement constitute approval of the quality, structural soundness or safety of the Property or the Project.

3.06 Other Approvals. Any DCD approval under this Agreement shall have no effect upon, nor shall it operate as a waiver of, the Developer's obligations to comply with the provisions of **Section 5.03** (Other Governmental Approvals) hereof. The Developer shall not commence construction of the Project until the Developer has obtained all necessary permits and approvals (including but not limited to DCD's approval of the Scope Drawings and Plans and Specifications) and proof of the General Contractor's and each subcontractor's bonding as required hereunder.

3.07 Progress Reports and Survey Updates. The Developer shall provide DCD with written monthly progress reports detailing the status of the Project, including a revised completion date, if necessary (with any change in completion date reflecting a delay in excess of 90 days being considered a Change Order, requiring DCD's written approval pursuant to **Section 3.04**). The Developer shall provide three (3) copies of an updated Survey to DCD upon the request of DCD or any Lender, reflecting improvements made to the Property.

3.08 Inspecting Agent or Architect. An independent agent or architect (other than the Developer's architect) approved by DCD shall be selected to act as the inspecting agent or architect, at the Developer's expense, for the Project. The inspecting agent or architect shall perform periodic inspections with respect to the Project, providing certifications with respect thereto to DCD, prior to requests for disbursement for costs related to the Project. With the written consent of DCD, the inspecting architect may be the inspecting architect engaged by or on behalf of any Lender, provided that said architect is an independent architect licensed by the State of Illinois, or an inspecting agent of DCD.

3.09 Barricades. Prior to commencing any construction requiring barricades, the Developer shall install a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all applicable federal, state or City laws, ordinances and regulations.

DCD retains the right to approve the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades.

3.10 Signs and Public Relations. The Developer shall erect a sign of size and style approved by the City in a conspicuous location on the Property during the Project, indicating that financing has been provided by the City. The City reserves the right to include the name, photograph, artistic rendering of the Project and other pertinent information regarding the Developer, the Property and the Project in the City's promotional literature and communications.

3.11 Utility Connections. The Developer may connect all on-site water, sanitary, storm and sewer lines constructed on the Property to City utility lines existing on or near the perimeter of the Property, provided the Developer first complies with all City requirements governing such connections, including the payment of customary fees and costs related thereto.

3.12 Permit Fees. In connection with the Project and subject to waivers authorized by City Council, 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 \$21,489,437, to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

Lender Financing	
Loan from Enterprise Mortgage Investments, Inc.	\$ 1,175,000
City Housing Loan	\$ 5,887,767
Loans from NHSRC	\$ 732,675
TIF	\$ 2,950,000
Deferred Developer Fee	\$ 375,000
Equity (subject to <u>Sections 4.03(b) and 4.06</u>)	\$10,368,995
ESTIMATED TOTAL	\$21,489,437

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

4.03 City Funds.

(a) Uses of City Funds. City Funds may only be used to pay directly or to reimburse 79th Street LLC for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs. Exhibit C sets forth, by line item, the TIF-Funded Improvements for the Project, and the maximum amount of costs that may be reimbursed from City Funds for each line item therein (subject to Sections 4.03(b) and 4.07(d)), contingent upon receipt by the City of documentation satisfactory in form and substance to DCD evidencing such cost and its eligibility as a Redevelopment Project Cost.

(b) Payment of City Funds.

- i. Subject to the terms and conditions of this Agreement, including but not limited to this **Section 4.03** and **Section 5** hereof, the City hereby agrees to provide City funds (the "**City Funds**") from Available Incremental Taxes to pay for and/or reimburse 79th Street LLC for the costs of the TIF-Funded Improvements in the amounts determined under **Section 4.03(c)**. To the extent Available Incremental Taxes are determined to be insufficient to meet the payment schedule set forth in **Section 4.03(c)**, the City shall make such deposit(s) as such Available Incremental Taxes become available. Payment of City Funds from Available Incremental Taxes are subject to no prior obligations; provided however, that the City retains the right to fund other projects within the Redevelopment Area using Available Incremental Taxes so long as such funding would not, based upon the City's projections and uses of Available Incremental Taxes at the time the City agrees to provide such funding, result in the amount of Available Incremental Taxes being insufficient to fund the City's obligations under this Agreement.
- ii. Subject to the terms and conditions of this Agreement, payment shall be made to 79th Street LLC (each an "Installment") in accordance with the terms of the Escrow Agreement and upon 79th Street LLC's submission of a draw request (the "Requisition Form") in accordance with **Section 4.03(c)**. Such Installments shall be in the amounts set for in **Section 4.03(c)**; provided, however, that the total amount of City Funds expended for TIF-Funded Improvements shall be an amount not to exceed Two Million, Nine Hundred Fifty Thousand Dollars and 00/100 (\$2,950,000).
- iii. City Funds derived from Incremental Taxes and available to pay such costs and allocated for such purposes shall be paid in accordance with the terms of this Agreement and the Escrow Agreement only so long as no Event of Default or condition for which the giving of notice or the passage of time, or both, would constitute an Event of Default exists under this Agreement or the Escrow Agreement.

The Developer acknowledges and agrees that the City's obligation to pay any City Funds is contingent upon the conditions set forth in parts (i), (ii) and (iii) above, as well the Developer's satisfaction of all other applicable terms and conditions of this Agreement, including, without limitation, compliance with the covenants in **Section 8.20**. In the event that such conditions are not fulfilled, the amount of Equity to be contributed by the Developer pursuant to **Section 4.01** hereof shall increase proportionately.

(c) **Payment Amount.** (i) The Installments to be paid pursuant to a draw request in accordance with the Escrow Agreement and upon submission of a Requisition Form shall be as follows (subject to **Sections 8.20**):

<u>Installment</u>	<u>Payment Trigger</u>	<u>Payment Amount</u>
One	Developer completion of 33% of the Project	\$1,000,000
Two	Developer completion of 67% of the Project	\$1,000,000
Three	Certificate of Completion Issued Pursuant to <u>Section 7.01</u> herein	\$950,000

(ii) Any delay in the construction completion date greater than six (6) months from the date set forth in **Section 3.01(ii)** shall result in the City no longer being obligated to reserve Available Increment in anticipation of paying Installments in accordance with **Section 4.03(c)(i)**.

4.04 Construction Escrow. The City, the Developer and Lender shall enter into an Escrow Agreement. All disbursements of City Funds shall be made through the funding of draw requests with respect thereto pursuant to the Escrow Agreement and this Agreement. In case of any conflict between the terms of this Agreement and the Escrow Agreement with respect to the payment of City Funds hereunder, the terms of this Agreement shall control. The City must receive copies of any draw requests and related documents submitted to the Title Company for disbursements under the Escrow Agreement.

4.05 Treatment of Prior Expenditures and Subsequent Disbursements .

(a) **Prior Expenditures.** Only those expenditures made by 79th Street LLC with respect to the Project prior to the Closing Date, evidenced by documentation satisfactory to DCD and approved by DCD as satisfying costs covered in the Project Budget, shall be considered previously contributed Equity or Lender Financing hereunder (the "**Prior Expenditures**"). DCD shall have the right, in its sole discretion, to disallow any such expenditure as a Prior Expenditure. **Exhibit I** hereto sets forth the prior expenditures approved by DCD as of the date hereof as Prior Expenditures. Prior Expenditures made for items other than TIF-Funded Improvements shall not be reimbursed to 79th Street LLC 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) **Subsequent Disbursements.** Disbursements of City Funds for expenditures related to TIF-Funded Improvements may be allocated to and charged against the appropriate line only, with transfers of costs and expenses from one line item to another, without the prior written consent of DCD, being prohibited, subject to the terms of **Section 3.04**. DCD shall not unreasonably withhold its consent to such transfers so long as the Corporation Counsel has advised DCD that an expenditure qualifies as an eligible cost under the Act.

(c) **City Fee.** Annually, the City may allocate an amount not to exceed ten percent (10%) of the Incremental Taxes for payment of costs incurred by the City for the administration and monitoring of the Redevelopment Area, including the Project (the "City Fee"). Such fee shall be in addition to and shall not be deducted from or considered a part of the City Funds, and the City shall have the right to receive such funds prior to any payment of City Funds hereunder.

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

the City harmless from any and all costs and expenses of completing the TIF-Funded Improvements in excess of City Funds and of completing the Project.

4.07 Preconditions of Disbursement. As a condition to the disbursement of City Funds hereunder, 79th Street LLC shall submit, at the time of each submission of the Requisition Form in accordance with **Section 4.03(c)**, documentation regarding the applicable expenditures to DCD, which shall be satisfactory to DCD in its sole discretion. Delivery by 79th Street LLC to DCD of any request for disbursement of City Funds hereunder shall, in addition to the items therein expressly set forth, constitute a certification by the Developer to the City, as of the date of such request for disbursement, that:

(a) the actual amount paid to the General Contractor and/or subcontractors who have performed work on the Project, and/or their payees is equal to or greater than the total amount of the disbursement request;

(b) all amounts shown as previous payments on the current Requisition Form have been paid to the parties entitled to such payment;

(c) the Developer has approved all work and materials for the current Requisition Form, and such work and materials conform to the Plans and Specifications;

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

(e) the Developer has received no notice and has no knowledge of any liens or claim of lien either filed or threatened against the Property except for the Permitted Liens and/or liens bonded by the Developer or insured by the Title Company; and

(f) no Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default exists or has occurred.

The City shall have the right, in its discretion, to require the Developer to submit further documentation as the City may require in order to verify that the matters certified to above are true and correct, and any disbursement by the City shall be subject to the City's review and approval of such documentation and its satisfaction that such certifications are true and correct; provided, however, that nothing in this sentence shall be deemed to prevent the City from relying on such certifications by the Developer. In addition, the Developer shall have satisfied all other preconditions of disbursement of City Funds for each disbursement, including but not limited to requirements set forth in any ordinance pursuant to which Bonds, if any, are issued, the City Housing Loan documents, the Bonds, if any, the TIF Ordinances this Agreement and/or the Escrow Agreement.

4.08 Conditional Payment of City Funds. The City Funds being provided hereunder are being provided to 79th Street LLC on a conditional basis, subject to the Developer's compliance with the provisions of this Agreement. The City Funds are subject to being reimbursed if the number of Affordable Units at the Facility decreases during the Term of the Agreement. Furthermore, after the issuance of the Certificate pursuant to **Section 7.01**, it shall be in DCD's sole discretion to make any payment pursuant to this Agreement upon and after the occurrence of any action described in **Section 8.01(j)** for which the Developer did not receive the prior written consent of the City. The payment of City Funds is subject to being terminated and/or reimbursed as provided in **Section 15**.

SECTION 5. CONDITIONS PRECEDENT

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

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

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

5.03 Other Governmental Approvals. The Developer has secured all other necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation and has submitted evidence thereof to DCD. Such approvals shall include, without limitation, all building permits necessary for the Project.

5.04 Financing. The Developer has furnished proof reasonably acceptable to the City that the Developer has Equity and Lender Financing in the amounts set forth in **Section 4.01** hereof to complete the Project and satisfy its obligations under this Agreement. If a portion of such funds consists of Lender Financing, the Developer has furnished proof as of the Closing Date that the proceeds thereof are available to be drawn upon by the Developer as needed and are sufficient (along with other sources set forth in **Section 4.01**) to complete the Project. The Developer has delivered to the City a copy of the Escrow Agreement. Any liens against the Property in existence at the Closing Date and recorded prior to this Agreement have been subordinated to certain encumbrances of the City set forth herein pursuant to a Subordination Agreement, in a form acceptable to the City, executed on or prior to the Closing Date, which is to be recorded, at the expense of the Developer, with the Office of the Recorder of Deeds of Cook County.

5.05 Acquisition and Title. On the Closing Date, the Developer has furnished the City with a pro forma copy of the Title Policy for the Property, certified by the Title Company, showing 79th Street Limited Partnership as the named insured. The Title Policy is dated as of the Closing Date and contains only those title exceptions listed as Permitted Liens on **Exhibit F** hereto and evidences the recording of this Agreement pursuant to the provisions of **Section 8.17** hereof. The Title Policy also contains such endorsements as shall be required by Corporation Counsel, including but not limited to, an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.1 with parking), contiguity (as applicable), location, access and survey. The Developer has provided to DCD, on or prior to the Closing Date, documentation related to the purchase of the Property and certified copies of all easements and encumbrances of record with respect to the Property not addressed, to DCD's satisfaction, by the Title Policy and any endorsements thereto.

5.06 Evidence of Clean Title. The Developer, at its own expense, has provided the City with searches under (a) the Developer's name, (b) NHS Wrightwood Inc., NHS Redevelopment Corporation, and 3 Diamond Development (collectively, the "Related Entities") 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 (including bankruptcy)
Clerk of Circuit Court, Pending suits and judgments Cook County	

showing no liens against the Developer, the Property, the Related Entities or any fixtures now or hereafter affixed thereto, except for the Permitted Liens and/or liens bonded by the Developer or insured by the Title Company.

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

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

5.09 Opinion of the Developer's Counsel. On the Closing Date, the Developer has furnished the City with an opinion of counsel, substantially in the form attached hereto as **Exhibit J**, with such changes as required by or acceptable to Corporation Counsel.

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

5.11 Financial Statements. The Developer has provided Financial Statements to DCD for its most recently completed fiscal year, and audited, if any, or unaudited interim financial statements for the period after the end of the most recently completed fiscal year.

5.12 Documentation. The Developer, as applicable, has provided documentation to DCD, satisfactory in form and substance to DCD, with respect to current employment matters.

5.13 Environmental. The Developer has provided DCD with copies of certain phase I environmental report(s) completed with respect to the Property and any phase II environmental report(s) with respect to the Property required by the City. The Developer has provided the City with a letter from the environmental engineer(s) who completed such report(s), authorizing the City to rely on such reports.

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

5.15 Litigation. The Developer has provided to Corporation Counsel and DCD, a description of all pending or threatened litigation or administrative proceedings involving the

Developer, specifying, in each case, the amount of each claim, an estimate of probable liability, the amount of any reserves taken in connection therewith and whether (and to what extent) such potential liability is covered by insurance.

SECTION 6. AGREEMENTS WITH CONTRACTORS

6.01 Bid Requirement for General Contractor and Subcontractors. The City has approved the Developer's selection of Fred Teitelbaum Construction Co., an Illinois corporation, as the General Contractor. The Developer shall submit copies of the Construction Contract to DCD 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 DCD 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 DCD and all requisite permits have been obtained.

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

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

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

6.05 Other Provisions. In addition to the requirements of this **Section 6**, the Construction Contract and each contract with any subcontractor shall contain provisions required pursuant to **Section 3.04** (Change Orders), **Section 8.07** (Employment Profile), **Section 8.08** (Prevailing Wage), **Section 10.01(e)** (Employment Opportunity), **Section 10.02** (City Resident Employment Requirement), **Section 10.03** (MBE/WBE Requirements, as applicable), **Section 12** (Insurance) and **Section 14.01** (Books and Records) hereof. Photocopies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DCD within five (5) business days of the execution thereof.

SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION

7.01 Certificate of Completion.

(a) Upon (i) satisfaction of the conditions set forth in **Section 7.01(c)** hereof, and (ii) upon Developer's written request, DCD shall issue to the Developer a Certificate in recordable form certifying that the Developer has fulfilled its obligation to complete the Project in accordance with the terms of this Agreement.

(b) DCD shall respond to the Developer's written request for a Certificate within forty-five (45) days by issuing either a Certificate or a written statement detailing the ways in which the Project does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by the Developer in order to obtain the Certificate. The Developer may resubmit a written request for a Certificate upon completion of such measures.

(c) Developer acknowledges that the City will not issue a Certificate until the following conditions have been met:

(i) the Developer has given the City written notification that the Project, including all of the TIF-Funded improvements, has been completed;

(ii) the Developer has provided DCD with evidence acceptable to DCD showing that Developer has completed the Project in compliance with building permit requirements, including, without limitation, receipt of certificate(s) of occupancy for one hundred percent (100%) of the units of the Project;

(iii) in accordance with **Section 8.20**, the COC Occupancy Covenant is met and the Occupancy Report has been approved; and

(iv) the City's monitoring unit has determined in writing that the Developer is in complete compliance with all requirements of **Section 8.08** (Prevailing Wage) and **Section 10** (Developer's Employment Obligations).

(d) Developer acknowledges that the City will not issue a Certificate if there exists an Event of Default under **Section 15.01** which has not been cured pursuant to **Section 15.03** or **Section 15.04**.

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

Those covenants specifically described at **Sections 8.02, 8.18, 8.19, 8.20** and **8.21** as covenants that run with the land are the only covenants in this Agreement intended to be binding upon any transferee of the Property (including an assignee as described in the following sentence) throughout the Term of the Agreement notwithstanding the issuance of a Certificate; provided, that upon the issuance of a Certificate, the covenants set forth in **Section 8.02** shall be deemed to have been fulfilled. The other executory terms of this Agreement that remain after the issuance of a Certificate shall be binding only upon the Developer or a permitted assignee of the Developer who,

pursuant to **Section 18.15** of this Agreement, has contracted to take an assignment of the Developer's rights under this Agreement and assume the Developer's liabilities hereunder.

7.03 Failure to Complete. If the Developer fails to complete the Project in accordance with the terms of this Agreement, then the City has, but shall not be limited to, any of the following rights and remedies:

(a) the right to terminate this Agreement and cease all disbursement of City Funds not yet disbursed pursuant hereto;

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

(c) the right to seek reimbursement of the City Funds from the Developer, provided that the City is entitled to rely on an opinion of counsel that such reimbursement will not jeopardize the tax-exempt status of the Bonds, if any.

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

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

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

(a) 79th Street Limited Partnership is an Illinois limited partnership and 79th Street LLC is an Illinois limited liability company, each duly organized, validly existing, qualified to do business in Illinois, and each 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) each of 79th Street Limited Partnership and 79th Street LLC has the right, power and authority to enter into, execute, deliver and perform this Agreement, as applicable hereto;

(c) the execution, delivery and performance by the Developer of this Agreement has been duly authorized by all necessary action, and does not and will not violate (as applicable) its Articles of Incorporation, by-laws or partnership agreement as amended and supplemented, any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or document to which the Developer is now a party or by which the Developer is now or may become bound;

(d) unless otherwise permitted or not prohibited pursuant to or under the terms of this Agreement, the 79th Street Limited Partnership shall acquire and shall maintain good, indefeasible and merchantable fee simple title to the Property (and all improvements thereon) free and clear of all liens (except for the Permitted Liens and/or liens bonded by the Developer or insured by the Title

Company, Lender Financing as disclosed in the Project Budget and non-governmental charges that the Developer is contesting in good faith pursuant to **Section 8.15** hereof);

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

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

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

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

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

(j) prior to the issuance of the Certificate pursuant to **Section 7.01**, the Developer shall not do any of the following without the prior written consent of DCD, which consent shall be in DCD's sole discretion: (1) be a party to any merger, liquidation or consolidation; (2) sell (including, without limitation, any sale and leaseback), transfer, convey, lease (except the lease of the Facility to tenants in accordance with **Section 8.19** herein) or otherwise dispose of all or substantially all of its assets or any portion of the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto); (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 the Certificate pursuant to **Section 7.01**, shall not, without the prior written consent of the Commissioner of DCD, allow the existence of any liens against the Property (or improvements thereon) other than the Permitted Liens and/or liens bonded by the Developer or insured by the Title Company; or incur any indebtedness, secured or to be secured by the Property (or improvements thereon) or any fixtures now or hereafter attached thereto, except Lender Financing disclosed in the Project Budget;

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

(m) neither the Developer nor any affiliate of the Developer is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their

successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. For purposes of this subparagraph (m) only, the term "affiliate," when used to indicate a relationship with a specified person or entity, means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified person or entity, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise; and

(n) Developer agrees that Developer, any person or entity who directly or indirectly has an ownership or beneficial interest in Developer of more than 7.5 percent ("**Owners**"), spouses and domestic partners of such Owners, Developer's contractors (i.e., any person or entity in direct contractual privity with Developer regarding the subject matter of this Agreement) ("**Contractors**"), any person or entity who directly or indirectly has an ownership or beneficial interest in any Contractor of more than 7.5 percent ("**Sub-owners**") and spouses and domestic partners of such Sub-owners (Developer and all the other preceding classes of persons and entities are together, the "**Identified Parties**"), shall not make a contribution of any amount to the Mayor of the City of Chicago (the "**Mayor**") or to his political fundraising committee (i) after execution of this Agreement by Developer, (ii) while this Agreement or any Other Contract (as defined below) is executory, (iii) during the term of this Agreement or any Other Contract between Developer and the City, or (iv) during any period while an extension of this Agreement or any Other Contract is being sought or negotiated.

Developer represents and warrants that from the later of (i) February 10, 2005, or (ii) the date the City approached the Developer or the date the Developer approached the City, as applicable, regarding the formulation of this Agreement, no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee.

Developer agrees that it shall not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (c) bundle or solicit others to bundle contributions to the Mayor or to his political fundraising committee.

Developer agrees that the Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 05-1 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 05-1.

Developer agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 05-1 constitutes a breach and default under this Agreement, and under any Other Contract for which no opportunity to cure will be granted unless the City, in its sole discretion, elects to grant such an opportunity to cure. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Agreement, under any Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Developer intentionally violates this provision or Mayoral Executive Order No. 05-1 prior to the closing of this Agreement, the City may elect to decline to close the transaction contemplated by this Agreement.

For purposes of this provision:

"Bundle" means to collect contributions from more than one source which are then delivered by one person to the Mayor or to his political fundraising committee.

"Other Contract" means any other agreement with the City of Chicago to which Developer is a party that is (i) formed under the authority of chapter 2-92 of the Municipal Code of Chicago; (ii) entered into for the purchase or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved or authorized by the City Council of the City of Chicago.

"Contribution" means a "political contribution" as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

Individuals are "Domestic Partners" if they satisfy the following criteria:

- (A) they are each other's sole domestic partner, responsible for each other's common welfare; and
- (B) neither party is married; and
- (C) the partners are not related by blood closer than would bar marriage in the State of Illinois; and
- (D) each partner is at least 18 years of age, and the partners are the same sex, and the partners reside at the same residence; and
- (E) two of the following four conditions exist for the partners:
 - 1. The partners have been residing together for at least 12 months.
 - 2. The partners have common or joint ownership of a residence.
 - 3. The partners have at least two of the following arrangements:
 - a. joint ownership of a motor vehicle;
 - b. a joint credit account;
 - c. a joint checking account;
 - d. a lease for a residence identifying both domestic partners as tenants.
 - 4. Each partner identifies the other partner as a primary beneficiary in a will.

"Political fundraising committee" means a "political fundraising committee" as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

8.02 Covenant to Redevelop. Upon DCD's approval of the Project Budget, the Scope Drawings and Plans and Specifications as provided in **Sections 3.02** and **3.03** hereof, and the Developer's receipt of all required building permits and governmental approvals, the Developer shall redevelop the Property in accordance with this Agreement and all Exhibits attached hereto, the TIF Ordinances, the Scope Drawings, Plans and Specifications, Project Budget and all amendments thereto, and all Laws applicable to the Project, the Property and/or the Developer, including, without limitation, all Environmental Laws. The covenants set forth in this Section shall run with the land

and be binding upon any transferee, but shall be deemed satisfied upon issuance by the City of a Certificate with respect thereto.

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

8.04 Use of City Funds. City Funds disbursed to 79th Street LLC shall be used by the 79th Street LLC solely to pay for (or to reimburse the 79th Street LLC for its payment for) the TIF-Funded Improvements as provided in this Agreement.

8.05 Other Bonds. The Developer shall, at the request of the City, agree to any reasonable amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole discretion) any bonds in connection with the Redevelopment Area, the proceeds of which may be used to reimburse the City for expenditures made in connection with, or provide a source of funds for the payment for, the TIF-Funded Improvements (the "**Bonds**"); provided, however, that the proceeds of bonds issued on a tax-exempt basis cannot be used as a source of City Funds or to repay the City Funds, and provided, further, that any such amendments shall not have a material adverse effect on the Developer or the Project. The Developer shall, at the Developer's expense, cooperate and provide reasonable assistance in connection with the marketing of any such Bonds, including but not limited to providing written descriptions of the Project, making representations, providing information regarding its financial condition and assisting the City in preparing an offering statement with respect thereto.

8.06 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 8.08, 10.02** and **10.03** of this Agreement. Such reports shall be delivered to the City monthly. If any such reports indicate a shortfall in compliance, the Developer shall also deliver a plan to DCD which shall outline, to DCD's satisfaction, the manner in which the Developer shall correct any shortfall.

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

8.08 Prevailing Wage. Unless required to pay federal "Davis-Bacon" wages pursuant to the terms of the City Housing Loan, 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 8.08**.

8.09 Arms-Length Transactions. Unless the City has given its prior written consent with respect thereto, no Affiliate of the Developer may receive any portion of City Funds, directly or indirectly, in payment for work done, services provided or materials supplied in connection with any TIF-Funded Improvement. The Developer shall provide information with respect to any entity to receive City Funds directly or indirectly (whether through payment to the Affiliate by the Developer

and reimbursement to the Developer for such costs using City Funds, or otherwise), upon DCD's request, prior to any such disbursement.

8.10 Conflict of Interest. Pursuant to Section 5/11-74.4-4(n) of the Act, the Developer represents, warrants and covenants that, to the best of its knowledge, no member, official, or employee of the City, or of any commission or committee exercising authority over the Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the City with respect thereto, owns or controls, has owned or controlled or will own or control any interest, and no such person shall represent any person, as agent or otherwise, who owns or controls, has owned or controlled, or will own or control any interest, direct or indirect, in the Developer's business, the Property or any other property in the Redevelopment Area.

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

8.12 Financial Statements. The Developer shall obtain and provide to DCD Financial Statements for the Developer's fiscal year ended December 31, 2008 and for each year thereafter within 90 days after the end of such fiscal year 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 DCD may request.

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

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

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

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge, prevent the imposition of a lien or remove such lien, or prevent the sale or forfeiture of the Property (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend the Developer's covenants to pay any such Non-Governmental Charge at the time and in the manner provided in this **Section 8.14**); or

(ii) at DCD's sole option, to furnish a good and sufficient bond or other security satisfactory to DCD in such form and amounts as DCD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property or any portion thereof or any fixtures that are or may be attached

thereto, during the pendency of such contest, adequate to pay fully any such contested Non-Governmental Charge and all interest and penalties upon the adverse determination of such contest.

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

8.16 Compliance with Laws. To the best of the Developer's knowledge, after diligent inquiry, the Property and the Project are and shall be in compliance with all applicable Laws pertaining to or affecting the Project and the Property. Upon the City's request, the Developer shall provide evidence satisfactory to the City of such compliance.

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

8.18 Real Estate Provisions.

(a) **Governmental Charges.**

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

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

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

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

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

(c) Real Estate Taxes.

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

(ii) Real Estate Tax Exemption. With respect to the Property or the Project, neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer shall, during the Term of this Agreement, seek, or authorize any exemption (as such term is used and defined in the Illinois Constitution, Article IX, Section 6 (1970)) for any year that the Redevelopment Plan is in effect; provided, however, nothing contained in this provision shall preclude Developer from applying for and receiving any reduction in the amount of real estate taxes payable for the Project or the Property, subject to the provisions of clause (iii) below.

(iii) No Reduction in Real Estate Taxes. Neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer shall, during the Term of this Agreement, directly or indirectly, initiate, seek or apply for proceedings in order to lower the assessed value of all or any portion of the Property or the Project below the amount of the Minimum Assessed Value as shown in Exhibit K; provided, however, the Developer is permitted to apply for a Class 9 designation from Cook County even if such designation with respect to the Property would result in a Minimum Assessed Value below that shown in Exhibit K.

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

(v) Covenants Running with the Land. The parties agree that the restrictions contained in this Section 8.18(c) are covenants running with the land and this Agreement shall be recorded by the Developer as a memorandum thereof, at the Developer's expense, with the Cook County Recorder of Deeds on the Closing Date. These restrictions shall be binding upon the Developer and its agents, representatives, lessees, successors, assigns and transferees from and after the date hereof; provided however, that the covenants shall be released when the Redevelopment Area is no longer in effect. The Developer agrees that any sale (including, without limitation, any sale and leaseback), lease, conveyance, or transfer of title to all or any portion of the Property or Redevelopment Area from and after the date hereof shall be made explicitly subject to such covenants and restrictions. Notwithstanding anything contained in this Section 8.18(c) to the contrary, the City, in its sole discretion and by its sole action, without the joinder or concurrence of the Developer, its successors or assigns, may waive and terminate the Developer's covenants and agreements set forth in this Section 8.18(c).

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

(a) The Facility shall be operated and maintained solely as residential rental housing;

(b) All of the Affordable Units in the Facility shall be available for occupancy to and be occupied solely by one or more persons qualifying as Low Income Families (as defined below) upon initial occupancy; and

(c) All of the Affordable Units in the Facility have monthly rents, payable by the respective tenant, at or below 60% in accordance with the rules specified in Section 42(g)(2) of the Internal Revenue Code of 1986, as amended; provided, however, that for any unit occupied by a Family (as defined below) that no longer qualifies as a Low Income Family due to an increase in such Family's income since the date of its initial occupancy of such unit, the maximum monthly rent for such unit shall not exceed thirty percent (30%) of such Family's monthly income.

(d) As used in this Section 8.19, the following terms has the following meanings:

(i) "Family" shall mean one or more individuals, whether or not related by blood or marriage; and

(ii) "**Low Income Families**" shall mean Families whose annual income does not exceed sixty percent (60%) of the Chicago-area median income, adjusted for Family size, as such annual income and Chicago-area median income are determined from time to time by the United States Department of Housing and Urban Development, and thereafter such income limits shall apply to this definition.

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

(f) The City and the Developer may enter into a separate agreement to implement the provisions of this **Section 8.19**.

8.20 Occupancy; Permitted Uses. Developer shall cause the lease of at least 90% of the Building on or before the date of request for and at the date issuance of the Certificate of Completion (the "COC Occupancy Covenant"). At the time the COC Occupancy Covenant is met, the Developer shall deliver a compliance report to the satisfaction of the City, which shall include a certified tenant rent roll along with such other information as the City shall request (the "Occupancy Report"), demonstrating, among other things, compliance with **Section 8.19** hereof. Developer shall cause the Building to be used in accordance with **Section 8.19** hereof and the Redevelopment Plan. The covenants contained in this **Section 8.20** shall run with the land and be binding upon any transferee for the term of this Agreement.

8.21 Annual Report. Developer shall provide to DCD an Annual Report consisting of (a) a letter from the Developer itemizing all ongoing requirements including references to all the relevant Sections of this Agreement, (b) sufficient documentation and certifications to evidence that all ongoing requirements have been satisfied during the preceding reporting period. The Annual Report shall be submitted each year, for ten (10) years, on the yearly anniversary of the issuance of the Certificate of Completion (each such year being a "reporting period"). Failure by the Developer to submit the Annual Report shall constitute an Event of Default under **Section 15.01** hereof, without notice or opportunity to cure pursuant to **Section 15.03** hereof. The covenants contained in this **Section 8.21** shall run with the land and be binding upon any transferee for the term of this Agreement.

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

SECTION 9. COVENANTS/REPRESENTATIONS/WARRANTIES OF CITY

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

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

SECTION 10. DEVELOPER'S EMPLOYMENT OBLIGATIONS

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

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

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

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

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

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

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

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

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

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

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

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

The Developer, the General Contractor and each subcontractor shall provide full access to their employment records to the Chief Procurement Officer, the Commissioner of DCD, 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 DCD, affidavits and other supporting documentation will be required of the Developer, the General Contractor and each subcontractor to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

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

When work at the Project is completed, in the event that the City has determined that the Developer has failed to ensure the fulfillment of the requirement of this Section concerning the

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

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

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

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

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

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

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

(c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code of Chicago, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by the Developer) or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of (i) the MBE or WBE participation in such joint venture or (ii) the amount of any actual work performed on the Project by the MBE or WBE), by the Developer utilizing a MBE or a WBE as the General Contractor (but only to the extent of any actual work performed on the Project by the General Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the Project to one or more MBEs or WBEs, or by the purchase of materials or services used in the Project from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to the Developer's MBE/WBE commitment as described in this **Section 10.03**. In accordance with Section 2-92-730, Municipal Code of Chicago, the Developer shall not substitute any MBE or WBE General Contractor or subcontractor without the prior written approval of DCD.

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

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

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

(g) Prior to the commencement of the Project, the Developer shall be required to meet with the City's monitoring staff with regard to the Developer's compliance with its obligations under this **Section 10.03**. The General Contractor and all major subcontractors shall be required to attend this pre-construction meeting. During said meeting, the Developer shall demonstrate to the City's monitoring staff its plan to achieve its obligations under this **Section 10.03**, the sufficiency of which shall be approved by the City's monitoring staff. During the Project, the Developer shall submit the documentation required by this **Section 10.03** to the City's monitoring staff, including the following: (i) subcontractor's activity report; (ii) contractor's certification concerning labor standards and prevailing wage requirements; (iii) contractor letter of understanding; (iv) monthly utilization report; (v) authorization for payroll agent; (vi) certified payroll; (vii) evidence that MBE/WBE contractor

associations have been informed of the Project via written notice and hearings; and (viii) evidence of compliance with job creation/job retention requirements. Failure to submit such documentation on a timely basis, or a determination by the City's monitoring staff, upon analysis of the documentation, that the Developer is not complying with its obligations under this **Section 10.03**, shall, upon the delivery of written notice to the Developer, be deemed an Event of Default. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to the Developer to halt the Project, (2) withhold any further payment of any City Funds to the Developer or the General Contractor, or (3) seek any other remedies against the Developer available at law or in equity.

SECTION 11. ENVIRONMENTAL MATTERS

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

Without limiting any other provisions hereof, the Developer agrees to indemnify, defend and hold the City harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of the Developer: (i) the presence of any Hazardous Material on or under, or the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Material from (A) all or any portion of the Property or (B) any other real property in which the Developer, or any person directly or indirectly controlling, controlled by or under common control with the Developer, holds any estate or interest whatsoever (including, without limitation, any property owned by a land trust in which the beneficial interest is owned, in whole or in part, by the Developer), or (ii) any liens against the Property permitted or imposed by any Environmental Laws, or any actual or asserted liability or obligation of the City or the Developer or any of its Affiliates under any Environmental Laws relating to the Property.

SECTION 12. INSURANCE

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

(a) Prior to execution and delivery of this Agreement.

(i) Workers Compensation and Employers Liability

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

(ii) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City 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) All Risk Property

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

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

(i) Workers Compensation and Employers Liability

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

(ii) Commercial General Liability (Primary and Umbrella)

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

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

(iv) Railroad Protective Liability

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

(v) All Risk /Builders Risk

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

(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 must be maintained with limits of not less than \$ 1,000,000. Coverage must include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Contract. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

(vii) Valuable Papers

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

(viii) Contractors Pollution Liability

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

(c) Post Construction:

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

(d) Other Requirements:

The Developer must furnish the City of Chicago, Department of Community Development, Development Support Services, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. The Developer must submit evidence of insurance on the City of Chicago Insurance

Certificate Form (copy attached) or equivalent prior to closing. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from Developer is not a waiver by the City of any requirements for the Developer to obtain and maintain the specified coverages. The Developer shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Developer of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to stop work and/or terminate agreement until proper evidence of insurance is provided.

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

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

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

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

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

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

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

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

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

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

SECTION 13. INDEMNIFICATION

13.01 General Indemnity. Developer agrees to indemnify, pay, defend and hold the City, and its elected and appointed officials, employees, agents and affiliates (individually an

"Indemnitee," and collectively the "Indemnitees") harmless from and against, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (and including without limitation, the reasonable fees and disbursements of counsel for such Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnities shall be designated a party thereto), that may be imposed on, suffered, incurred by or asserted against the Indemnitees in any manner relating or arising out of:

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

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

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

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

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

SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT

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

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

SECTION 15. DEFAULT AND REMEDIES

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

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

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

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

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

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

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

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

(h) the occurrence of an event of default under the Lender Financing, including but not limited to the City Housing Agreement, which default is not cured within any applicable cure period;

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

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

(k) the sale or transfer of a majority of the ownership interests of the Developer without the prior written consent of the City; provided however, transfers of limited partnership interests or the removal of the general partner, in each case in accordance with the 79th Street Limited Partnership's partnership agreement shall require only notice to the City.

For purposes of **Sections 15.01(i)** and **15.01(j)** hereof, a person with a material interest in the Developer shall be one owning in excess of ten percent (10%) of 79th Street Limited Partnership's partnership interests.

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

15.03 Curative Period. In the event the Developer shall fail to perform a monetary covenant which the Developer is required to perform under this Agreement, except as set forth elsewhere in this Agreement, an Event of Default shall not be deemed to have occurred unless the Developer has failed to perform such monetary covenant within ten (10) days of its receipt of a written notice from the City specifying that it has failed to perform such monetary covenant. In the event the Developer shall fail to perform a non-monetary covenant which the Developer is required to perform under this Agreement, except as set forth elsewhere in this Agreement, an Event of Default shall not be deemed to have occurred unless the Developer has failed to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, the Developer shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured; provided, further, notwithstanding anything to the contrary contained herein, the City hereby agrees that any cure of and default made or tendered by one of 79th Street Limited Partnership's limited partners shall be deemed to be a cure by the Developer and shall be accepted or rejected on the same basis as if made or tendered by Developer.

15.04 Right to Cure by Lender. In the event that an Event of Default occurs under this Agreement, and if, as a result thereof, the City intends to exercise any right or remedy available to it that could result in termination of this Agreement and all related agreements, or the suspension, cancellation or reduction of the amount of City Funds disbursed hereunder, the City shall prior to exercising such right or remedy, send notice of such intended exercise to the Lender and the Lender shall have the right (but not the obligation) to cure such Event of Default as follows:

(a) if the Event of Default is a monetary default, the Lender may cure such default within 30 days after the later of: (i) the expiration of the cure period, if any, granted to the Developer with respect to such monetary default; or (ii) receipt by the Lender of such notice from the City; and

(b) if any Event of Default is of a non-monetary nature, the Lender shall have the right to cure such default within 30 days after the later of: (i) the expiration of the cure period, if any, granted to the Developer with respect to such non-monetary default; or (ii) receipt by the Lender of such notice from the City; and

(c) Notwithstanding the provisions of **Section 15.04(b)** hereof, if such non-monetary default is an Event of Default set forth in **Section 15.01(e), (f), (g), (h), (i) or (j)** hereof or Event of Default by the Developer of a nature so as not reasonably being capable of being cured within such 30 day period (each such default being a "Personal Developer Default"), the Lender shall provide written notice to the City within 30 days of receipt of notice of such Personal Developer Default stating that it shall cure such Personal Developer Default by the assignment of all of the Developer's rights and interests in this Agreement to the Lender or any other party agreed to in writing by both the Lender and the City. Upon receipt by the City of such notice from the Lender, the cure period shall be extended for such reasonable period of time as may be necessary to complete such assignment and assumption of Developer's rights hereunder; provided, however, that no payment of City Funds shall occur until such time as such Personal Developer Default is cured.

SECTION 16. MORTGAGING OF THE PROJECT

All mortgages or deeds of trust in place as of the date hereof with respect to the Property or any portion thereof are listed on **Exhibit F** hereto (including but not limited to mortgages made prior to or on the date hereof in connection with Lender Financing) and are referred to herein as the "Existing Mortgages." Any mortgage or deed of trust that the Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof is referred to herein as a "New Mortgage." Any New Mortgage that the Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof with the prior written consent of the City is referred to herein as a "Permitted Mortgage." It is hereby agreed by and between the City and the Developer as follows:

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

(b) In the event that any mortgagee shall succeed to the Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under an Existing Mortgage or a Permitted Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with **Section 18.15** hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "the Developer" hereunder; provided, however, that, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of the Developer's interest under this Agreement, such party has no liability

under this Agreement for any Event of Default of the Developer which accrued prior to the time such party succeeded to the interest of the Developer under this Agreement, in which case the Developer shall be solely responsible. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of the Developer's interest hereunder, such party shall be entitled to no rights and benefits under this Agreement, and such party shall be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land.

(c) Prior to the issuance of the Certificate pursuant to **Section 7.01** hereof, no New Mortgage shall be executed with respect to the Property or any portion thereof without the prior written consent of the Commissioner of DCD.

SECTION 17. NOTICE

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

If to the City:	City of Chicago Department of Community 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:	79th Street Limited Partnership c/o 3 Diamond Development LLC 7444 North Long Avenue Skokie, IL 60077 Attention: Neal Stein
With Copies To:	Applegate & Thorne-Thomsen, P.C. 322 South Green Street, Suite 400 Chicago, IL 60607 Attention: Warren Wenzloff, Esq.
And to:	RJ HOF 8-79th Street L.L.C. c/o Raymond James Tax Credit Funds, Inc. 880 Carillon Parkway St. Petersburg, Florida 33716 Attention: Ronald M. Diner, President Nuyen, Tomtishen and Aoun, P.C. 201 Commonwealth Boulevard, Suite 300

Ann Arbor, Michigan 48105
Attention: Brad M. Tomtishen

NHS Wrightwood, Inc.
1279 North Milwaukee
Chicago, Illinois 60622
Attention: Debbie Dixon

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

SECTION 18. MISCELLANEOUS

18.01 Amendment. This Agreement and the Exhibits attached hereto may not be amended or modified without the prior written consent of the parties hereto; provided, however, that the City, in its sole discretion, may amend, modify or supplement Exhibit D hereto without the consent of any party hereto. It is agreed that no material amendment or change to this Agreement shall be made or be effective unless ratified or authorized by an ordinance duly adopted by the City Council. The term "material" for the purpose of this Section 18.01 shall be defined as any deviation from the terms of the Agreement which operates to cancel or otherwise reduce any developmental, construction or job-creating obligations of Developer (including those set forth in Sections 10.02 and 10.03 hereof) by more than five percent (5%) or materially changes the Project site or character of the Project or any activities undertaken by Developer affecting the Project site, the Project, or both, or increases any time agreed for performance by the Developer by more than ninety (90) days.

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

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

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

18.05 Waiver. Waiver by the City or the Developer with respect to any breach of this Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other default or with respect to any particular default, except to the extent specifically waived by the City or the Developer in writing. No delay or omission on the part of a party in exercising any right shall operate as a waiver of such right or any other right unless pursuant to the

specific terms hereof. A waiver by a party of a provision of this Agreement shall not prejudice or constitute a waiver of such party's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by a party, nor any course of dealing between the parties hereto, shall constitute a waiver of any such parties' rights or of any obligations of any other party hereto as to any future transactions.

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

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

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

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

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

18.11 Conflict. In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances 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, DCD or the Commissioner, or any matter is to be to the City's, DCD'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, DCD 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 DCD in making all approvals, consents and determinations of satisfaction, granting the Certificate or otherwise administering this Agreement for the City.

18.15 Assignment. The Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City. Any successor in interest to the Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to **Sections 8.18** (Real Estate Provisions) and **8.22** (Survival of Covenants) hereof, for the Term of the Agreement. The

Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

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

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

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

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

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

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

18.22 Business Relationships. The Developer acknowledges (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (B) that Developer has read such provision

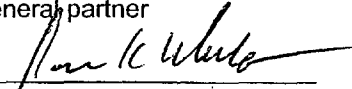
and understands that pursuant to such Section 2-156-030 (b), it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom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

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

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

79TH STREET LIMITED PARTNERSHIP
an Illinois limited partnership

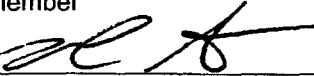
By: NHS Wrightwood, Inc.
an Illinois corporation,
a general partner

By: 

Its: Vice President

By: 79th Street Development LLC
an Illinois limited liability company,
a general partner

By: 3 Diamond Development LLC
an Illinois limited liability company,
its member

By: 

Its: MANAGER

79th STREET DEVELOPMENT LLC
an Illinois limited liability company

By: 3 Diamond Development LLC
an Illinois limited liability company,
a general partner

By: 

Its: MANAGER

CITY OF CHICAGO

By: _____
Christine Raguso, Acting Commissioner
Department of Community Development

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

79TH STREET LIMITED PARTNERSHIP
an Illinois limited partnership

By: NHS Wrightwood, Inc.
an Illinois corporation,
a general partner

By: _____

Its: _____

By: 79th Street Development LLC
an Illinois limited liability company,
a general partner

By: 3 Diamond Development LLC
an Illinois limited liability company,
its member

By: _____

Its: _____

79th STREET DEVELOPMENT LLC
an Illinois limited liability company

By: 3 Diamond Development LLC
an Illinois limited liability company,
a general partner

By: _____

Its: _____

CITY OF CHICAGO

By: Christine Raguso
Christine Raguso, Acting Commissioner
Department of Community Development

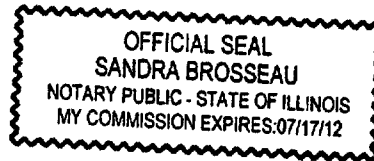
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the county and State aforesaid, do hereby certify that James W. Wheaton, personally known to me to be the Vice President of NHS Wrightwood, Inc. (the "NHS"), an Illinois corporation and a general partner of 79th Street Limited Partnership ("79th Street Limited Partnership"), an Illinois limited partnership, personally known to me to be the Vice President of the NHS 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 severally acknowledged that as such Vice President, (s)he signed and delivered the said instrument, pursuant to authority given by the Board of Directors of NHS as their free and voluntary act, and as the free and voluntary act and deed of the NHS and 79th Street Limited Partnership for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 25th day of August, 2009.

Notary Public

Sandra Brosseau



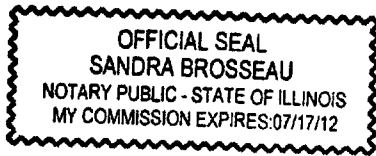
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, SANDRA BROUSSEAU, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that NEAL A STEIN, personally known to me to be the MANAGER of 3 Diamond Development LLC, an Illinois limited liability company, ("3 Diamond") and a member of 79th Street LLC, an Illinois limited liability company ("79th Street LLC"), the general partner of 79th Street Limited Partnership, an Illinois limited partnership ("79th Street Limited Partnership"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the members of 3 Diamond, as his/her free and voluntary act, as the free and voluntary act of 79th Street LLC and as the free and voluntary act of 79th Street Limited Partnership, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 20th day of August, 2009
Sandra Brosseau
Notary Public

My Commission Expires 7-17-12

(SEAL)



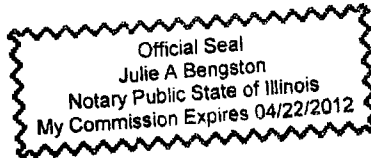
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, Julie A Bengston, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Christine Raguso, personally known to me to be the Acting Commissioner of the Department of Community 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 28 th day of August, 2011.

Julie A Bengston
Notary Public

My Commission Expires _____



**WRIGHTWOOD SENIOR APARTMENTS
REDEVELOPMENT AGREEMENT**

EXHIBIT A

REDEVELOPMENT AREA LEGAL DESCRIPTION

See Attached.

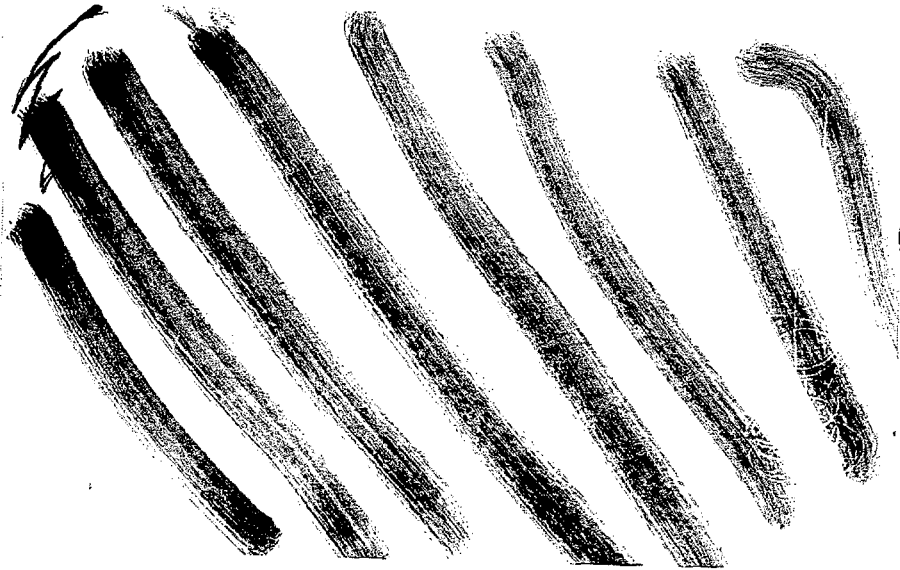


Exhibit "C".
(To Ordinance)

Legal Description.

That part of Sections 25, 26, 35 and 36, Township 38 North, Range 13, and Sections 30 and 31, Township 38 North, Range 14, East of the Third Principal Meridian, bounded and described as follows:

beginning at the point of intersection of the north line of a 16 foot wide public alley, north of West 79th Street, with the west line of South Sawyer Avenue in the east half of the southeast quarter of said Section 26; thence west along the north line of said 16 foot wide public alley to the east line of South St. Louis Avenue in the west half of the southeast quarter of said Section 26; thence north along said east line of South St. Louis Avenue to the north line, extended east, of another 16 foot public alley, north of said West 79th Street; thence west along north line, extended east, of said 16 foot wide public alley to the east line of South Central Park Avenue; thence south along east line of said South Central Park Avenue, across said West 79th Street to the south line of said West 79th Street; thence east along south line of said West 79th Street to the east line of Lot 5 in southwest highlands at 79th and Kedzie (Unit Number 1) in the northeast quarter of said Section 35, recorded January 24, 1927 as Document Number 9529800; thence south along the east line of said Lot 5 to the southeast corner of said Lot 5, said corner being also the north line of a 16 foot wide public alley; thence west along north line of said public alley to the northwesterly line of another 16 foot wide public alley, northwesterly of West Columbus Avenue; thence southwest along northwesterly line of said public alley to the southwesterly line (extended northwesterly) of Lot 19 in said southwest and highlands at 79th and Kedzie (Unit Number 1); thence southeasterly along southwesterly line of said Lot 19 to the northwesterly line of said West Columbus Avenue; thence southwest along northwesterly line of said West Columbus Avenue to the west line of South Central Park Avenue in the west half of the northeast quarter of said Section 35; thence north along west line of said South Central Park Avenue to the south line of West 79th Street; thence west along south line (extended west) of said West 79th Street to the west right-of-way line of C. and G. T. Railway; thence south along said west right-of-way line to the northwesterly line (extended northeasterly) of West Columbus Avenue; thence southwest along said northwesterly line of West Columbus Avenue to the north line of a 16 foot wide alley south of West 83rd Street in the east half of the southwest quarter of said Section 35; thence west along north line (extended west) of said 16 foot wide alley to the west line of South Lawndale Avenue; thence south along west line of said South Lawndale

Avenue to the northwesterly line of aforesaid West Columbus Avenue; thence southwesterly along northwesterly line of aforesaid West Columbus Avenue to the north line of West 86th Street in the west half of the southwest quarter of said Section 35; thence west along north line of said West 86th Street to the west line of the west half of the southwest quarter of said Section 35; thence south along west line of the west half of the southwest quarter of said Section 35 to the south line of the said west half of the southwest quarter of Section 35; thence east along said south line of the west half of the southwest quarter of Section 35 to the southeasterly line (extended southwesterly) of South Rumsey Avenue; thence northeasterly along southeasterly line of said South Rumsey Avenue to the south line of West 85th Street; thence northwesterly at a 90 degree angle to the right from last described course to the southeasterly right-of-way line of Wabash Railroad; thence northeasterly along said Wabash Railroad to the south line of West 83rd Place; thence east along the south line of said West 83rd Place to the west right-of-way line of C. and G. T. Railroad; thence south along west right-of-way line of said C. and G. T. Railroad to the south line of the east half of the southwest quarter of said Section 35; thence east along the south line (extended east) of said east half of the southwest quarter to the east right-of-way line of said C. and G. T. Railroad; thence north along east line of said C. and G. T. Railroad to the southeasterly right-of-way line of aforesaid Wabash Railroad in the west half of the northeast quarter of said Section 35; thence northeasterly along southeasterly right-of-way line of said Wabash Railroad to the west line (extended north) of a 16 foot wide public alley west of South Kedzie Avenue in the east half of the northeast quarter of said Section 35; thence south along west line (extended south) of said 16 foot wide public alley to the south line of West 85th Street in the east half of the southeast quarter of said Section 35; thence east along south line of said West 85th Street to the east line of South Kedzie Avenue; thence north along the east line of said South Kedzie Avenue to a line drawn 125.00 feet south of and parallel with the south line of West 83rd Street; thence east along said line drawn 125.00 feet south to the west line (extended south) of Lot 1 in Mullen's Beverly Heights Resubdivision, recorded January 23, 1953 as Document Number 15532002; thence north along west line of said Lot 1 to the southwest corner of said Lot 1; thence east along south line of said Lot 1 to the southeast corner of said Lot 1; thence north along east line of said Lot 1 to the south line of West 83rd Street; thence northward across said West 83rd Street to the southwest corner of Lot 16 in A. M. Ziegler's Resubdivision recorded January 22, 1952 as Document Number 15258913, said corner also being the east line of a 16 foot wide public alley east of South Kedzie Avenue; thence north along the east line of said 16 foot wide public alley to the north line of West 82nd Street; thence west along north line of said West 82nd Street to the east line of South Kedzie Avenue; thence north along east line of said South Kedzie Avenue to the south line of West 80th Street; thence east along south line of said West 80th Street to the east line of a 16 foot wide alley east of South Kedzie Avenue; thence north along east line (extended north and south) of said 16 foot wide public alley to the southeasterly line of another 16 foot wide public

alley; thence northeasterly along said southeasterly line of said another alley to the south line of a 16 foot wide public alley south of West 79th Street; thence east along south line (extended east) of said 16 foot wide public alley to the east line of South Troy Street; thence north along said east line of South Troy Street to the south line of West 79th Street; thence east along said south line of West 79th Street to the west line of South Francisco Avenue; thence south along said west line of South Francisco Avenue to the south line of a 16 foot wide public alley south of West 79th Street; thence east along said south line (extended east and west) of a 16 foot wide public alley to the west line of a 16 foot wide public alley, west of South Western Avenue; thence south along said west line of a 16 foot wide public alley to the north line of West 81st Street; thence west along north line of said West 81st Street to the west line (extended north) of another 16 foot wide public alley, west of South Western Avenue; thence south along said west line of a 16 foot wide public alley to the north line of another 16 foot wide public alley, north of West 83rd Street; thence east along south line of said alley to the west line of the east 7 feet of Lot 16 of Block 20 in Hazelwood and Wright's Subdivision recorded December 23, 1891 as Document Number 1587871; thence south along said west line of the east 7 feet of Lot 16 to the south line of West 83rd Street; thence east along south line of said West 83rd Street to the east line of South Western Avenue; thence north along said east line of South Western Avenue to the south right-of-way line of B. & O. Railroad, said right-of-way line also being the north line of West 82nd Street; thence west along said north line, 50 feet to the west line of the west half of the northwest quarter of said Section 31; thence north along said west line to the south line (extended west) of Lot 19 of Block 4 in Fourth Addition to Hinkamp and Company's Western Avenue, according to the plat thereof recorded March 26, 1927 as Document Number 9593488; thence east along said south line (extended east and west) to the west line (extended south) of Lot 14 of Block 4 aforesaid; thence north along said west line of Lot 14 of Block 4 to the northwest corner of said Lot 14 of Block 4; thence northward across West 81st Place to the southwest corner of Lot 14 of Block 3 in Fourth Addition to Hinkamp and Company's Western Avenue aforesaid; thence north along west lines of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 of said Block 3 to the northwest corner of Lot 1 of Block 3 aforesaid; thence northward across West 81st Street to the southwest corner of Lot 25 of Block 2 in Beverly View, according to the plat thereof recorded October 1, 1926 as Document Number 9420515; thence north along west line (extended north and south) of Lots 25 and 14 of Block 2 aforesaid to the south line of West 80th Place; thence northward across said West 80th Place to a point of intersection of north line of West 80th Place and the east line of a 14 foot wide public alley east of South Western Avenue; thence north along east line of said 14 foot wide public alley to the south line of West 80th Street; thence northward across said West 80th Street to a point of intersection of the north line of West 80th Street aforesaid and the east line of a 16 foot wide public alley east of South Western Avenue; thence north along east line of said a 16 foot wide public alley to the south line (extended west) of south line of another 16 foot wide public alley, south of West

79th Place; thence east along said south line of a 16 foot wide public alley to the west line (extended south) of Lot 10 in Western Avenue and 80th Street Resubdivision, according to the plat thereof recorded October 29, 1923 as Document Number 8163720; thence north along said west line of Lot 10 to the south line of West 79th Place; thence east along the south line of said West 79th Place to a line drawn 50 feet west and parallel with the east line of the west half of the northwest quarter of said Section 31; thence south along said parallel line to the southeast corner of Lot 48 of Block 4 in Lingle and Darlow's Subdivision, according to the plat thereof recorded August 2, 1873 as Document Number 112406; thence continuing south and southeasterly along one of the curved lines of Penna Railroad, said curved line being the southwesterly line of railroad property having Permanent Index Number 20-31-500-001 to the south line of the east half of the southwest quarter of said Section 31; thence east along said south line to the northeasterly right-of-way line of Penna Railroad; thence northwesterly and northerly along said northeasterly right-of-way line to the north line of Lot 7 in Hunter's Subdivision according to the plat thereof recorded August 4, 1866 as Document Number 120538; thence east along said north line (extended east) of Lot 7 to the east line (extended south) of 50 foot wide South Hoyne Avenue; thence north along said east line to the south line of a 16 foot wide alley north of West 82nd Street; thence east along said south line (extended east) of a 16 foot wide public alley to the east line of another 16 foot wide north/south alley west of South Damen Avenue; thence north along said east line of north/south alley to the south line of Lot 5 in Andrew Munro's Subdivision according to the plat thereof recorded June 3, 1926 as Document Number 9296047; thence east along said south line (extended east) of Lot 5 to the east line of South Damen Avenue; thence north along said east line of South Damen Avenue to the north line (extended east) of West 80th Place; thence west along said north line of West 80th Place to the southwest corner of Lot 25 in Andrew H. Munro's Subdivision according to the plat thereof recorded March 18, 1927 as Document Number 9584788; thence north along west line (extended north and south) of said Lots 25 and 24 to the northwest corner of said Lot 24; thence northerly across West 80th Street to the southwest corner of Lot 25 of Block 4 in Sweet, Cole and Buel's Subdivision according to the plat thereof recorded October 26, 1874 as Document Number 197575, said corner also being on east line of South Hoyne Avenue; thence north along said east line of South Hoyne Avenue to the north line of West 79th Place; thence west along said north line (extended east and west) of West 79th Place to the west line of Lot 37 of Block 2 in said Sweet, Cole and Buel's Subdivision; thence north along said west line (extended north) of Lot 37 to the south line of a 14 foot wide east/west alley south of West 79th Street; thence east along said south line of east/west alley to the west line of South Damen Avenue; thence eastward across said South Damen Avenue to the northwest corner of Lot 11 of Block 4 in Baird and Rowland's Subdivision according to the plat thereof recorded October 2, 1889 as Document Number 1164406, said corner also being on the south line of a 16 foot wide east/west alley; thence east along said south line of east/west alley to the west line of South Honore

Street; thence north along said west line of South Honore Street across West 79th Street to the north line of a 16 foot wide east/west public alley north of West 79th Street; thence west along said north line of east/west alley to the east line of South Wolcott Avenue; thence westward across said South Wolcott Avenue to a point of intersection of west line of said South Wolcott Avenue with north line of a 16 foot wide east/west alley north of West 79th Street; thence west along said north line of east/west alley to the east line of South Damen Avenue; thence westward across said South Damen Avenue to a point of intersection of west line of said South Damen Avenue with north line of a 16 foot wide east/west alley north of West 79th Street; thence west along said north line (extended west) of said east/west alley to the west line of another 16 foot wide north/south alley west of South Hamilton Avenue; thence south along west line of said north/south alley to the south line of a 16 foot wide east/west alley aforesaid, north of West 79th Street; thence west along south line (extended west) of said east/west alley to the east right-of-way line of Penna Railroad; thence south along said east right-of-way line to the south line of West 79th Street; thence west along said south line of West 79th Street to the west line of South Western Avenue; thence north along said west line of South Western Avenue to the north line of Lot 19 of Block 1 in John R. O'Connor's Beverly Gateway Subdivision according to the plat thereof recorded November 13, 1925 as Document Number 9095138; thence west along said north line (extended west) of Lot 19, 183.18 feet to a line drawn 49.95 feet west and parallel with the east line of a vacated 16 foot wide alley west of South Western Avenue; thence south along said parallel line to the north line of a 16 foot wide east/west alley north of West 79th Street; thence southward across said east/west alley to the northwest corner of Lot 37 of said Block 1; thence south along said west line of Lot 37 to the north line of West 79th Street; thence west along said north line of West 79th Street to the west line of the west half of the southeast quarter of said Section 25; thence north along said west line of the west half of the southeast quarter to a line drawn 356 feet southeasterly and parallel with northwesterly right-of-way line of Wabash Railroad, southeasterly of West Columbus Avenue; thence northeasterly along said parallel line to the south line of Wabash Addition to Chicago according to the plat thereof recorded May 14, 1890 as Document Number 1269284, said line also being the south line of Lot 39 of said Wabash Addition to Chicago; thence east along said south line of Lot 39 to the southeasterly corner of said Lot 39; thence northeasterly along the southeasterly curved line (extended northeasterly) to a point 38 feet south of the southerly line of Landers Yard and on west line of South Western Avenue; thence north along said west line of South Western Avenue to the southeasterly right-of-way line of Wabash Railroad; thence southwesterly along said southeasterly right-of-way line to the north line of West 79th Street in the west half of the southwest quarter of said Section 25; thence west along said

north line of West 79th Street to the east line of South Kedzie Avenue; thence north along said east line of South Kedzie Avenue to the northwesterly line of West Columbus Avenue; thence northeasterly along said northwesterly line of West Columbus Avenue to the west line of South Troy Street; thence north along said west line of South Troy Street to the north line of a 16 foot wide east/west alley north of West Columbus Avenue; thence west along said north line of alley to the east line of another 16 feet wide north/south alley; thence north along said east line (extended north) of north/south alley to the centerline (extended east) of another 16 foot wide vacated alley, south of West 77th Street; thence west along said centerline to the east line of South Kedzie Avenue; thence north along said east line of South Kedzie Avenue to the south line of West 77th Street; thence west across said South Kedzie Avenue along said south line of West 77th Street to the centerline of 16 foot wide north/south alley, west of South Kedzie Avenue; thence south along said centerline to the centerline of another northeast/southwest vacated alley, northwesterly of West Columbus Avenue; thence southwesterly along said centerline of northeast/southwest alley to the east line of South Sawyer Avenue; thence southwesterly, across said South Sawyer Avenue to the point of beginning, all in Cook County, Illinois.

Exhibit "D".
(To Ordinance)

Street Location Of The Area.

The Area encompasses portions of four (4) major corridors: West 79th Street, from South Central Park Avenue to South Honore Street; the southern side of Southwest Highway (Columbus Avenue) from West 79th Street to West 87th Street; South Kedzie Avenue, from West 77th Street to West 85th Street; and South Western Avenue, from West 79th Street to West 83rd Street. Several blocks south of West 79th Street along South Hoyne Avenue are also included.

**WRIGHTWOOD SENIOR APARTMENTS
REDEVELOPMENT AGREEMENT**

EXHIBIT B

PROPERTY LEGAL DESCRIPTION

Subject to Survey and Title Commitment

Legal Description - Building

LOTS 1 TO 10, BOTH INCLUSIVE, IN BLOCK 21 IN THIRD ADDITION TO HINKAMP AND COMPANY'S WESTERN AVENUE SUBDIVISION* OF THE NORTHEAST ¼ OF THE NORTHWEST ¼ OF SECTION 36, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

** BEING A SUBDIVISION*
Address: 2815 West 79th Street, Chicago Illinois

Property Identification Numbers: 19-36-107-054-0000 and 19-36-107-055-0000 ✓

Legal Description - Parking Lot

LOTS 8,9 AND 10 IN BLOCK 20 IN SECOND ADDITION TO HINKAMP AND COMPANY'S WESTERN AVENUE SUBDIVISION, BEING A SUBDIVISION OF THE NORTHWEST ¼ OF THE NORTHEAST ¼ OF SECTION 36, TOWNSHIP 38 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT EAST 33 FEET THEREOF) ALL IN COOK COUNTY, ILLINOIS

Address: 2751-2757 West 79th Street, Chicago Illinois

Property Identification Numbers: 19-36-200-001-0000, 19-36-200-002-0000 and 19-36-200-003-0000 ✓

**WRIGHTWOOD SENIOR APARTMENTS
REDEVELOPMENT AGREEMENT**

EXHIBIT C

TIF-FUNDED IMPROVEMENTS

<u>Line Item</u>	<u>Cost</u>
Acquisition	\$1,300,000
Construction	\$6,251,216
Infrastructure	\$ 43,000
 TOTAL:	 \$ 7,594,216*

* The maximum amount of City Funds provided to the Developer shall not exceed \$2,950,000.

**WRIGHTWOOD SENIOR APARTMENTS
REDEVELOPMENT AGREEMENT**

EXHIBIT D

REDEVELOPMENT PLAN

Intentionally Omitted.



**WRIGHTWOOD SENIOR APARTMENTS
REDEVELOPMENT AGREEMENT**

EXHIBIT E

CONSTRUCTION CONTRACT

Intentionally Omitted.



**WRIGHTWOOD SENIOR APARTMENTS
REDEVELOPMENT AGREEMENT**

EXHIBIT F

PERMITTED LIENS

1. Liens or encumbrances against the Property:

Those matters set forth as Schedule B title exceptions in the City's title insurance policy issued by the Title Company as of the date hereof, but only so long as applicable title endorsements issued in conjunction therewith on the date hereof, if any, continue to remain in full force and effect.

2. Liens or encumbrances against the Developer or the Project, other than liens against the Property, if any:

None.

3. Liens or encumbrances to be recorded against the Property in connection with the proposed permanent financing from Enterprise Mortgage Investments, Inc. in the amount of \$1,175,000.

**WRIGHTWOOD SENIOR APARTMENTS
REDEVELOPMENT AGREEMENT**

EXHIBIT G

PROJECT BUDGET

See Attached.



**WRIGHTWOOD SENIOR APARTMENTS
REDEVELOPMENT AGREEMENT**

EXHIBIT G

Wrightwood Senior Apartments

Line Item	Amount
Land Cost	\$1,301,827
Other Acquisition	\$361,380
Acquisition Costs Subtotal	\$1,663,207
Net Construction Costs	\$12,158,548
General Conditions	\$723,490
GC Overhead & Profit	\$967,139
Construction Costs Subtotal	\$13,849,177
Furniture, Fixtures, & Equip't	\$115,000
Building Permits	\$33,239
Bond Premium/ LOC Fees	\$77,400
Site Preparation	\$200,000
Contingency	\$696,894
Infrastructure	\$43,000
Utility Expense	\$25,000
Other Construction Subtotal	\$1,190,533
Architect - Design	\$475,000
Architect - Supervision	\$136,675
Blueprints & Reproductions	\$15,000
Permit Expediter	\$25,000
As-Is Plats & Surveys	\$20,000
Accountant - General	\$30,200
Legal - Organizational	\$178,959
Legal - Syndication	\$35,000
Consultant - Financial	\$225,000
Appraisal & Market Study	\$43,500
Phase I Environ. Report	\$35,000
Title & Recording Fees	\$30,000
Professional Fees Subtotal	\$1,249,334
Tax Credit Issuer Fees	\$92,625
Application Fees	\$5,000
Construction Points	\$150,015
Construction Inspection	\$20,000
Lender Legal Fees	\$45,000
Construction Interest	\$666,202
Lender Fees Subtotal	\$978,842
Hazard Insurance	\$58,364
Real Estate Taxes	\$45,000
Other Construction Period	\$40,000
Construction Period Subtotal	\$143,364
Advertising	\$85,000
Marketing & Leasing Subtotal	\$85,000
Developer Fee	\$1,375,000
Developer Fee Subtotal	\$1,375,000
Lease-Up Reserve	\$115,705
Insurance Reserve	\$29,006
Property Tax Reserve	\$42,075
Operating Reserve	\$407,944

**WRIGHTWOOD SENIOR APARTMENTS
REDEVELOPMENT AGREEMENT**

EXHIBIT G

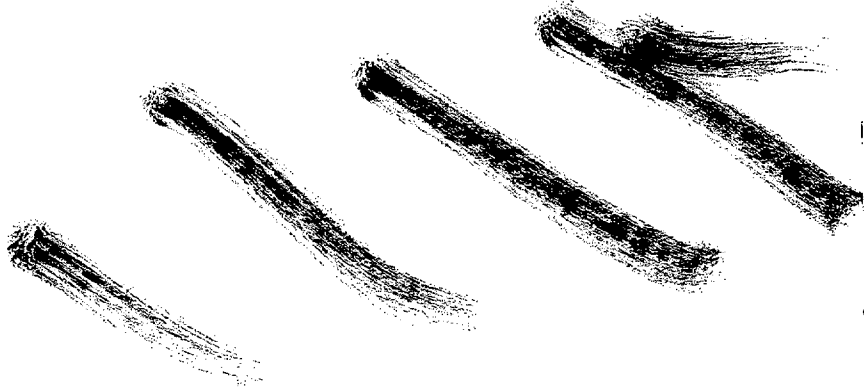
	Replacement Reserve	\$25,500
	Restabilization Reserve	\$11,000
	LIHTC Reserve Adjuster	\$323,750
Reserves Subtotal		\$954,980
Grand Total Dev Costs		\$21,489,437

**WRIGHTWOOD SENIOR APARTMENTS
REDEVELOPMENT AGREEMENT**

EXHIBIT H

REQUISITION FORM

Intentionally Omitted.



**WRIGHTWOOD SENIOR APARTMENTS
REDEVELOPMENT AGREEMENT**

EXHIBIT I

APPROVED PRIOR EXPENDITURES

Intentionally Omitted.



**WRIGHTWOOD SENIOR APARTMENTS
REDEVELOPMENT AGREEMENT**

EXHIBIT J

OPINION OF DEVELOPER'S COUNSEL

Intentionally Omitted.

**WRIGHTWOOD SENIOR APARTMENTS
REDEVELOPMENT AGREEMENT**

EXHIBIT K

MINIMUM ASSESSED VALUATIONS*

Parcel (PIN NUMBER)	MINIMUM ASSESSED VALUATION
19-36-107-054-0000	\$16,810
19-36-107-055-0000	\$257,953
19-36-200-001-0000	\$8,265
19-36-200-002-0000	\$6,179
19-36-200-003-0000	\$6,219

*Represents the equalized assessed valuation for tax year 2000, which is the equalized assessed valuation of such Parcel on the date of establishment of the Redevelopment Area.

**WRIGHTWOOD SENIOR APARTMENTS
REDEVELOPMENT AGREEMENT**

EXHIBIT L

ESCROW AGREEMENT

Intentionally Omitted.

