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COPY



**JOURNAL of the PROCEEDINGS  
of the  
CITY COUNCIL  
of the  
CITY of CHICAGO, ILLINOIS**

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Regular Meeting -- Wednesday, September 18, 2024

at 10:00 A.M.

(Council Chamber -- City Hall -- Chicago, Illinois)

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**OFFICIAL RECORD.**

**VOLUME I**

**BRANDON JOHNSON**  
Mayor

**ANDREA M. VALENCIA**  
City Clerk

*JOURNAL OF THE PROCEEDINGS OF THE CITY COUNCIL*  
Regular Meeting -- Wednesday, September 18, 2024

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**Attendance At Meeting.**

*Present* -- The Honorable Brandon Johnson, Mayor, and Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein.

*Absent* -- Alderpersons Taylor, Burnett.

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**Call To Order.**

On Wednesday, September 18, 2024 at 10:27 A.M. (the appointed time for the meeting was 10:00 A.M.), the Honorable Brandon Johnson, Mayor, called the City Council to order. The Honorable Andrea M. Valencia, City Clerk, called the roll of members and it was found that there were present at that time: Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Villegas, Mitts, Sposato, Nugent, Napolitano, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Silverstein -- 41.

Quorum present.

At this point in the proceedings, the Honorable Brandon Johnson, Mayor, informed the City Council that Alderpersons Taylor, Burnett and Coleman submitted requests, pursuant to Rule 59 of the City Council's Rules of Order and Procedure, to attend the meeting remotely.

Thereupon, the members physically present in the Chamber accepted by unanimous viva voce vote the requests by Alderpersons Taylor, Burnett and Coleman to attend the meeting remotely, pursuant to Rule 59 of the City Council's Rules of Order and Procedure.

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**Pledge Of Allegiance.**

Mayor Brandon Johnson led the City Council and assembled guests in the Pledge of Allegiance to the Flag of the United States of America.

**Invocation.**

Nelson Vargas, pastor from The Branch Community Church, opened the meeting with prayer.

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**PUBLIC COMMENT.**

In accordance with the City Council's Rules of Order and Procedure, the following members of the general public addressed the City Council:

Jodie Wiederkehr

Patricia Tatum

Ross Litkenhous

Frank Chapman

Pamela Scheinman

Shawn Campbell

Dr. Vince Davis

Ja'Mese Plesant

Daniel Boland

At this point in the proceedings, Mayor Johnson stated that the City Council would stand in recess momentarily.

Following the pause, Mayor Johnson called the meeting back in session.

Minnie Hill

In accordance with the City Council's Rules of Order and Procedure, the following members of the general public submitted written comments to the City Council:

Christa Velbel

Illir Sulejmani

Patti Daschbach  
Karen Elger  
Gina Getty  
Jodie Wiederkehr  
Dianna Rodriguez  
Layla Gallagher  
Will Thimes  
John Paul Jones  
Tracy Doherty  
Yu Li Ford  
Alec Singer  
Rachel Beattie  
Animal Rights Collective of Chicago  
Pamela Scheinman  
Nicole Mika  
Geoff Watts  
Mary Parker

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**REPORTS AND COMMUNICATIONS FROM CITY OFFICERS.**

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*Rules Suspended* -- RECOGNITION AND GRATITUDE EXTENDED TO PUBLIC SERVANTS, VOLUNTEERS AND ORGANIZERS FOR CONTRIBUTIONS TOWARD SUCCESSFUL YEAR 2024 DEMOCRATIC NATIONAL CONVENTION.

[R2024-0012343]

The Honorable Brandon Johnson, Mayor, presented the following communication:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I and Vice Mayor Burnett, President Pro Tempore Nugent, and City Clerk Valencia, together with Aldermen Quinn, Napolitano, Gutiérrez, Gardiner, Vasquez, Manaa-Hoppenworth, La Spata, Lawson, Ervin, Lee, Hadden, Martin, Dowell, Hall, Fuentes, Robinson, Silverstein, Conway, Chico, Cruz, Moore, Sposato, Rodríguez, Harris, Mosley, Ramirez, Taliaferro, Ramirez-Rosa, Mitts, O'Shea, Hopkins, Reilly, Rodríguez-Sánchez, Clay, Taylor, Villegas, Yancy and Sigcho-Lopez, transmit herewith a resolution honoring public servants, volunteers and organizers for their contributions toward the successful 2024 Democratic National Convention.

Your favorable consideration of this resolution will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

Aldersperson Mitchell moved to *Suspend the Rules Temporarily* to permit immediate consideration of and action upon the said proposed resolution. The motion *Prevailed*.

The following is said proposed resolution:

WHEREAS, From August 19 -- 22, the City of Chicago hosted the 2024 Democratic National Convention at the United Center and McCormick Place; and

WHEREAS, As the host of 26 national political conventions -- more than double any other city -- Chicago is well acquainted with the demands and attention a convention brings and the people of our great City met the moment; showcasing the culture, diversity, hospitality, cuisine and joy of our hometown to the tens of thousands in attendance; and

WHEREAS, The convention brought thousands of delegates and tens of thousands of staff, press, and other visitors as well as thousands of demonstrators from across the country seeking to exercise their First Amendment rights; and

WHEREAS, None of this could have been possible without our City's dedicated public servants, the countless contributions of volunteers, businesses, and non-profits, or the meticulous planning and preparation by City leaders to ensure a safe and successful convention; and

WHEREAS, Our first responders from the Chicago Police Department, Chicago Fire Department and the Office of Emergency Management and Communication rose to the occasion, maintaining the discipline, professionalism, and patience necessary to keep arrests and violence to a minimum, while also respecting the peaceful exercise of First Amendment rights; and

WHEREAS, In particular, Superintendent Larry Snelling -- leading from the front as a near-constant presence throughout the convention -- and his leadership team set a new standard for the Chicago Police Department with minimal injuries and complaints during nearly a week of daily protests, putting to rest long-outdated perceptions of our City; and

WHEREAS, At the same time, the convention could not have been a success without the contributions of less visible, but no less important, public servants, from each and every City department and Sister Agency, who worked for months preparing, planning, and supporting their fellow public servants, including from the Departments of Streets and Sanitation, Cultural Affairs and Special Events, Transportation, Fleet and Facility Management, Water Management, Aviation, Business Affairs and Consumer Protection, Family and Support Services and Public Health; and

WHEREAS, The City also thanks Governor JB Pritzker, the Chicago 2024 Host Committee, the State of Illinois, Cook County, the Regional Transit Authority and law enforcement personnel from across the country for their assistance in making this convention a success our City can be proud of; and

WHEREAS, We also recognize the organizers, marshals, and safety captains whose collaboration and composure helped ensure that demonstrations and marches remained largely peaceful, lowering tempers and providing guidance when it was most needed; and

WHEREAS, In a City that is no stranger to hosting historic political conventions and the attendant national spotlight, we are deeply grateful to everyone who contributed to showing off everything that makes Chicago the best city in the world, while also maintaining our values and protecting peaceful First Amendment activity; now, therefore,

*Be It Resolved*, That we, the Mayor and the members of the City Council of the City of Chicago, assembled on this 18<sup>th</sup> day of September 2024, do hereby honor and express our deepest gratitude to all of the public servants, volunteers, and organizers whose collaboration and commitment made the historic 2024 Democratic National Convention a resounding success and helped showcase our City to the world.

On motion of Alderperson Mitchell, seconded by Alderpersons Quinn, Moore, Harris, Silverstein, Lee, Rodríguez, Knudsen, Curtis, Hadden, Taliaferro, O'Shea, Sposato, Fuentes, Cruz, Napolitano, Dowell, Lopez, Mitts, Villegas, Conway, Ervin, Robinson, Gardiner, Curtis, Moore and Nugent, the foregoing resolution was *Adopted* by yeas and nays as follows:

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

Alderperson Harris then moved to *Suspend the Rules Temporarily* to allow City Clerk Valencia to address the body. Hearing no objection, the motion *Prevailed*.

The Honorable Anna Valencia, City Clerk, thanked the members of the City Council for allowing her the opportunity to address the body. Expressing her appreciation to the news media for their coverage of this successful event which helped showcase our bright and thriving city, City Clerk Valencia also thanked Governor Pritzker, Senator Duckworth, Mayor Lightfoot and the many individuals, organizations and contractors which helped to make this convention an example of diversity and inclusivity and conveyed her appreciation to the women of the Chicago 2024 Host Committee for their leadership and fundraising efforts. City Clerk Valencia then commended Superintendent Snelling for his leadership and the members of the Chicago Police Department for their professionalism and dedication in ensuring the safety of convention attendees, spectators and visitors, and expressed her appreciation to the commissioners and staff of the Department of Streets and Sanitation, the Department of Transportation and the Office of Emergency Management and Communications for their dedication and hard work in helping make this historic convention a success.

At this point in the proceedings, the Honorable Brandon Johnson, Mayor, joined the members of the City Council in congratulating and thanking the many individuals, organizations, elected officials and city employees who helped to make the 2024 Democratic National Convention a success. Chicago has effectively hosted its 26<sup>th</sup> national political convention, the Mayor noted, and brought thousands of delegates and tens of thousands of staff and other visitors from across the country to our city. During the week of the convention, people were not only able to exercise their First Amendment freedoms, the Mayor declared, but visitors and residents alike were able to experience and explore the full tapestry of Chicago and travel from our neighborhoods and downtown to the United Center. At this peaceful and joyful convention Vice President Kamala Harris and Governor Tim Walz were selected as Democratic nominees, the Mayor stated, and the excitement of this historic event resonated throughout our city. Crediting the success of the 2024 Democratic National Convention to the many hardworking, dedicated, and talented public servants, employees, and leaders from various City departments and sister agencies, Mayor Johnson also lauded and thanked the incredible support of volunteers, businesses, and nonprofit agencies.

Mayor Johnson also thanked Governor JB Pritzker and the State of Illinois, Cook County Board President Toni Preckwinkle and the members of the Cook County Board, Chicago 2024 Host Committee Executive Director Christy George and Senior Advisor Keiana Barrett, as well as law enforcement personnel from across the country for helping to make this a moment which we can all be proud of. Mayor Johnson then thanked Superintendent Larry Snelling for his leadership and steadiness and the Chicago Police Department for their professionalism, collaboration and care in keeping our visitors and residents safe by embracing constitutional policing which adheres to the fundamental principle that "you can serve, you can protect, and you can do it with dignity". Mayor Johnson then acknowledged and thanked Chief Operating Officer for the City of Chicago John Roberson for his talented leadership in coordinating and overseeing the logistics of hosting this historic event. The professionalism, collaboration, and hard work committed to hosting the 2024 Democratic National Convention resulted in a peaceful, successful and proud moment, the Mayor concluded, and puts to rest an old perception and inspires a renewed confidence in the greatness of the City of Chicago.

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*Rules Suspended* -- CONGRATULATIONS EXTENDED TO JOSIE CRUZ ON RETIREMENT AS DEPUTY COMMISSIONER OF DEPARTMENT OF STREETS AND SANITATION.

[R2024-0012340]

The Honorable Brandon Johnson, Mayor, presented the following communication:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I transmit herewith, together with Aldermen Rodríguez, Nugent, Gutiérrez, Gardiner, Vasquez, Manaa-Hoppenworth, La Spata, Lawson, Ervin, Lee, Hadden, Martin, Dowell, Hall, Fuentes, Robinson, Silverstein, Conway, Chico, Cruz, Moore, Sposato, Harris, Mosley, Ramirez, Taliaferro, Napolitano, Ramirez-Rosa, Mitts, O'Shea, Hopkins, Reilly, Rodríguez-Sánchez, Clay, Taylor, Villegas, Yancy, Sigcho-Lopez and City Clerk Valencia, a congratulatory resolution honoring Josie Cruz.

Your favorable consideration of this resolution will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

Aldersperson Mitchell moved to *Suspend the Rules Temporarily* to permit immediate consideration of and action upon the said proposed resolution. The motion *Prevailed*.

The following is said proposed resolution:

WHEREAS, After decades of service to the City of Chicago, Josie Cruz is retiring as Deputy Commissioner for the Department of Streets and Sanitation; and

WHEREAS, The Chicago City Council has been informed of this occasion by the Honorable Samantha Nugent, Aldersperson of the 39<sup>th</sup> Ward; and

WHEREAS, Since 1996, Josie Cruz has faithfully served the City's Department of Streets and Sanitation, beginning her career as part of the Dumpster Task Force; and

WHEREAS, Josie was promoted to be the first woman General Superintendent for the Department in 2000, followed by a promotion to Deputy Commissioner for the Bureau of Rodent Control in 2005; and

WHEREAS, Josie also served as the first woman Deputy Commissioner for Sanitation from 2013 through 2016, and until 2021 was the only woman Deputy Commissioner for the Department of Streets and Sanitation; and

WHEREAS, As Deputy Commissioner for the Bureau of Rodent Control, Josie was an invaluable team leader dedicated to keeping Chicago clean and healthy by addressing resident requests for rodent abatement by appointment as a free service to residents, and educating residents -- in multiple languages -- on how to keep their property and communities free from rodent challenges; and

WHEREAS, Under Josie's leadership, new strategies to address rodent challenges were developed and introduced, including Door-to-Door Abatement Projects on City blocks, which included flyer distribution, knocking on doors and inspecting backyards and garbage carts; and

WHEREAS, Through her caring, management skills, tireless hard work and forward-thinking attitude, Josie has made a lasting impact on the City of Chicago and will be deeply missed by her staff, her colleagues, and the communities in which she served; now, therefore,

*Be It Resolved*, That we, the Mayor and the members of the City Council of the City of Chicago, assembled this 18<sup>th</sup> day of September 2024, do hereby recognize and honor Josie Cruz for her extraordinary contributions to the City and her lifelong commitment to public service; and

*Be It Further Resolved*, That a suitable copy of this resolution be presented to Deputy Commissioner Josie Cruz as a token of our appreciation and recognition for her outstanding dedication and service to the community.

On motion of Alderperson Mitchell, seconded by Alderpersons Rodríguez, Napolitano, Mitts, Harris, Curtis, Lee, O'Shea, Lopez, Beale, Dowell, Knudsen, Silverstein, Sposato, Cardona, Hadden, Moore, Waguespack and Nugent, the foregoing resolution was *Adopted* by yeas and nays as follows:

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

At this point in the proceedings, the Honorable Brandon Johnson, Mayor, joined the members of the City Council in congratulating Deputy Commissioner Josie Cruz on her retirement. Throughout her public service career with the Department of Streets and Sanitation, Deputy Commissioner Cruz assumed increasingly greater responsibilities, the Mayor stated, and she quickly rose through the ranks of the department to become Deputy Commissioner of the Bureau of Rodent Control. Tackling some of the most significant challenges facing City residents, Deputy Commissioner Cruz led the charge to address the City's rodent problem through various campaigns, initiatives, and education helping to keep Chicago cleaner and healthier for us all, the Mayor declared. Reflecting on Deputy Commissioner Cruz's legacy of accomplishment during her 28-year career with the Department of Streets and Sanitation, Mayor Johnson declared her a dedicated leader and inspiration who has left an indelible mark on our city and its residents and expressed his appreciation and best wishes to Deputy Commissioner Josie Cruz as she now embarks on a new chapter in her life.

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At this point in the proceedings, Alderperson Silverstein requested that the members of the City Council and assembled guests rise and observe a moment of silence in remembrance of the late Hersh Goldberg-Polin.

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REGULAR ORDER OF BUSINESS RESUMED.

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*Referred* -- REAPPOINTMENT OF JOHN H. IDLER AS MEMBER OF STATE STREET COMMISSION (SPECIAL SERVICE AREA NO. 1-2015).

[A2024-0012348]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Economic, Capital and Technology Development*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed John H. Idler as a member of Special Service Area Number 1-2015, the State Street Commission, for a term expiring January 13, 2028, such period allocated as follows: a term effective immediately and expiring January 13, 2025, followed immediately by a full three-year term.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

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*Referred --* REAPPOINTMENT OF DAVID L. GASSMAN AS MEMBER OF CENTRAL LAKE VIEW COMMISSION (SPECIAL SERVICE AREA NO. 17).

[A2024-0012350]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Economic, Capital and Technology Development:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed David L. Gassman as a member of Special Service Area Number 17, the Central Lake View Commission, for a term effective immediately and expiring March 14, 2026.

9/18/2024

COMMUNICATIONS, ETC.

15519

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

---

*Referred* -- REAPPOINTMENT OF CHARLOTTE A. WALTERS AS MEMBER OF  
HOWARD STREET COMMISSION (SPECIAL SERVICE AREA NO. 19).  
[A2024-0012351]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was  
*Referred to the Committee on Economic, Capital and Technology Development:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Charlotte A. Walters as a member of  
Special Service Area Number 19, the Howard Street Commission, for a term effective  
immediately and expiring June 13, 2027.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

*Referred* -- REAPPOINTMENT OF WALLACE S. ANDERSEN AS MEMBER OF CLARK STREET COMMISSION (SPECIAL SERVICE AREA NO. 24).

[A2024-0012353]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Economic, Capital and Technology Development*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Wallace S. Andersen as a member of Special Service Area Number 24, the Clark Street Commission, for a term effective immediately and expiring January 15, 2026.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

---

*Referred* -- REAPPOINTMENT OF ALAN J. GOLDBERG AS MEMBER OF CLARK STREET COMMISSION (SPECIAL SERVICE AREA NO. 24).

[A2024-0012354]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Economic, Capital and Technology Development*:

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COMMUNICATIONS, ETC.

15521

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Alan J. Goldberg as a member of Special Service Area Number 24, the Clark Street Commission, for a term effective immediately and expiring January 15, 2026.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

---

*Referred* -- APPOINTMENT OF TOLULOPE ONEYA AS MEMBER OF CLARK STREET COMMISSION (SPECIAL SERVICE AREA NO. 24).

[A2024-0012352]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Economic, Capital and Technology Development:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have appointed Tolulope Oneya as a member of Special Service Area Number 24, the Clark Street Commission, for a term expiring January 15, 2027, such period allocated as follows: a term effective immediately and expiring January 15, 2025, to succeed James A. McHale, whose term has expired, followed immediately by a full two-year term.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

---

*Referred -- REAPPOINTMENT OF JILL M. METZ AS MEMBER OF BROADWAY COMMERCIAL DISTRICT COMMISSION (SPECIAL SERVICE AREA NO. 26).*

[A2024-0012355]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Economic, Capital and Technology Development:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Jill M. Metz as a member of Special Service Area Number 26, the Broadway Commercial District Commission, for a term expiring May 26, 2027, such period allocated as follows: a term effective immediately and expiring May 26, 2025, followed immediately by a full two-year term.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

9/18/2024

COMMUNICATIONS, ETC.

15523

*Referred* -- REAPPOINTMENT OF NADIA CORONADO AS MEMBER OF WEST TOWN COMMISSION (SPECIAL SERVICE AREA NO. 29-2014).

[A2024-0012361]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Economic, Capital and Technology Development*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Nadia Coronado as a member of Special Service Area Number 29-2014, the West Town Commission, for a term effective immediately and expiring January 21, 2026.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

---

*Referred* -- REAPPOINTMENT OF EVAN MUELLNER AS MEMBER OF WEST TOWN COMMISSION (SPECIAL SERVICE AREA NO. 29-2014).

[A2024-0012358]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Economic, Capital and Technology Development*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Evan Muellner as a member of Special Service Area Number 29-2014, the West Town Commission, for a term effective immediately and expiring January 21, 2026.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

---

*Referred -- REAPPOINTMENT OF TAYLOR OLDS AS MEMBER OF WEST TOWN COMMISSION (SPECIAL SERVICE AREA NO. 29-2014).*

[A2024-0012357]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Economic, Capital and Technology Development:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Taylor Olds as a member of Special Service Area Number 29-2014, the West Town Commission, for a term expiring January 21, 2027, such period allocated as follows: a term effective immediately and expiring January 21, 2025, followed immediately by a full two-year term.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

---

*Referred* -- REAPPOINTMENT OF STEVEN E. TOBIASON AS MEMBER OF WEST TOWN COMMISSION (SPECIAL SERVICE AREA NO. 29-2014).

[A2024-0012359]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Economic, Capital and Technology Development*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Steven E. Tobiason as a member of Special Service Area Number 29-2014, the West Town Commission, for a term effective immediately and expiring January 21, 2026.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

*Referred -- APPOINTMENT OF ERIN C. WEBER AS MEMBER OF WEST TOWN COMMISSION (SPECIAL SERVICE AREA NO. 29-2014).*

[A2024-0012362]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Economic, Capital and Technology Development:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have appointed Erin C. Weber as a member of Special Service Area Number 29-2014, the West Town Commission, for a term expiring January 21, 2027, such period allocated as follows: a term effective immediately and expiring January 21, 2025 to complete the unexpired term of Lindsey Wurz, who has resigned, followed immediately by a full two-year term.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

---

*Referred -- REAPPOINTMENT OF KELLY CHENG AS MEMBER OF UPTOWN COMMISSION (SPECIAL SERVICE AREA NO. 34).*

[A2024-0012363]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Economic, Capital and Technology Development:*

9/18/2024

COMMUNICATIONS, ETC.

15527

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Kelly Cheng as a member of Special Service Area Number 34, the Uptown Commission, for a term effective immediately and expiring October 4, 2026.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

---

*Referred* -- REAPPOINTMENT OF DOMINIC IRPINO AS MEMBER OF UPTOWN COMMISSION (SPECIAL SERVICE AREA NO. 34).

[A2024-0012364]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Economic, Capital and Technology Development:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Dominic Irpino as a member of Special Service Area Number 34, the Uptown Commission, for a term effective immediately and expiring October 4, 2026.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

---

*Referred --* APPOINTMENT OF TODD A. ISRAEL AS MEMBER OF UPTOWN COMMISSION (SPECIAL SERVICE AREA NO. 34).

[A2024-0012367]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Economic, Capital and Technology Development:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have appointed Todd A. Israel as a member of Special Service Area Number 34, the Uptown Commission, for a term effective immediately and expiring October 4, 2026, to succeed Jared P. Dolan, whose term has expired.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

9/18/2024

COMMUNICATIONS, ETC.

15529

*Referred -- REAPPOINTMENT OF NICHOLAS J. PINTO AS MEMBER OF UPTOWN COMMISSION (SPECIAL SERVICE AREA NO. 34).*

[A2024-0012365]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Economic, Capital and Technology Development:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Nicholas J. Pinto as a member of Special Service Area Number 34, the Uptown Commission, for a term effective immediately and expiring October 4, 2026.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

---

*Referred -- REAPPOINTMENT OF LESLEY SHOWERS AS MEMBER OF UPTOWN COMMISSION (SPECIAL SERVICE AREA NO. 34).*

[A2024-0012366]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Economic, Capital and Technology Development:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Lesley Showers as a member of Special Service Area Number 34, the Uptown Commission, for a term effective immediately and expiring October 4, 2026.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

---

*Referred* -- REAPPOINTMENT OF MAURA NEMES AS MEMBER OF  
DEVON AVENUE COMMISSION (SPECIAL SERVICE AREA NO. 43).  
[A2024-0012368]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was  
*Referred to the Committee on Economic, Capital and Technology Development:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Maura Nemes as a member of Special  
Service Area Number 43, the Devon Avenue Commission, for a term effective immediately  
and expiring February 2027.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

9/18/2024

COMMUNICATIONS, ETC.

15531

*Referred* -- REAPPOINTMENT OF JENNIFER R. CLARK AS MEMBER OF SHERIDAN ROAD COMMISSION (SPECIAL SERVICE AREA NO. 54).

[A2024-0012369]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Economic, Capital and Technology Development*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Jennifer R. Clark as a member of Special Service Area Number 54, the Sheridan Road Commission, for a term effective immediately and expiring June 6, 2026.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

---

*Referred* -- REAPPOINTMENT OF JULIO GOMEZ AS MEMBER OF 59<sup>TH</sup> STREET COMMISSION (SPECIAL SERVICE AREA NO. 59-2022).

[A2024-0012386]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Economic, Capital and Technology Development*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Julio Gomez as a member of Special Service Area Number 59-2022, the 59<sup>th</sup> Street Commission, for a term expiring

June 25, 2027, such period allocated as follows: a term effective immediately and expiring June 25, 2025, followed immediately by a full two-year term.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

---

*Referred --* APPOINTMENT OF STEPHANIE KNIGHT AS MEMBER OF NORTH MICHIGAN AVENUE COMMISSION (SPECIAL SERVICE AREA NO. 76).

[A2024-0012387]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Economic, Capital and Technology Development:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have appointed Stephanie Knight as a member of Special Service Area Number 76, the North Michigan Avenue Commission, for a term expiring March 23, 2028, such period allocated as follows: a term effective immediately and expiring March 23, 2025, to complete the unexpired term of Elliott J. Adamczyk, who has resigned, followed immediately by a full three-year term.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

9/18/2024

COMMUNICATIONS, ETC.

15533

*Referred* -- APPOINTMENT OF ERIN GRABE AS MEMBER OF LAWRENCE/  
PULASKI/ELSTON COMMISSION (SPECIAL SERVICE AREA NO. 79).

[A2024-0012393]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was  
*Referred to the Committee on Economic, Capital and Technology Development:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have appointed Erin Grabe as a member of Special  
Service Area Number 79, the Lawrence/Pulaski/Elston Commission, for a term expiring  
July 20, 2027, such period allocated as follows: a term effective immediately and expiring  
July 20, 2025, followed immediately by a full two-year term, to fill a vacancy.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

*Referred* -- REAPPOINTMENT OF LISA E. ORLOFF AS MEMBER OF LAWRENCE/  
PULASKI/ELSTON COMMISSION (SPECIAL SERVICE AREA NO. 79).

[A2024-0012389]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was  
*Referred to the Committee on Economic, Capital and Technology Development:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Lisa E. Orloff as a member of Special Service Area Number 79, the Lawrence/Pulaski/Elston Commission, for a term effective immediately and expiring July 20, 2026.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

---

*Referred -- REAPPOINTMENT OF NICHOLAS A. YASSAN AS MEMBER OF  
LAWRENCE/PULASKI/ELSTON COMMISSION (SPECIAL SERVICE AREA NO. 79).  
[A2024-0012390]*

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Economic, Capital and Technology Development:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Nicholas A. Yassan as a member of Special Service Area Number 79, the Lawrence/Pulaski/Elston Commission, for a term effective immediately and expiring July 20, 2026.

9/18/2024

COMMUNICATIONS, ETC.

15535

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

---

*Referred* -- APPOINTMENT OF JOCELYN ARANDA-ORTIZ AS MEMBER OF  
ADVISORY COUNCIL ON NEW AMERICANS.

[A2024-0012399]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was  
*Referred to the Committee on Health and Human Relations:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have appointed Jocelyn Aranda-Ortiz as a member  
of the Advisory Council on New Americans for a term effective immediately and expiring  
February 19, 2027.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

*Referred* -- APPOINTMENT OF FARRAH BEIDAS AS MEMBER OF ADVISORY COUNCIL ON NEW AMERICANS.

[A2024-0012402]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Health and Human Relations*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have appointed Farrah Beidas as a member of the Advisory Council on New Americans for a term effective immediately and expiring February 19, 2027.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

---

*Referred* -- APPOINTMENT OF MARIYA DMYTRIV AS MEMBER OF ADVISORY COUNCIL ON NEW AMERICANS.

[A2024-0012401]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Health and Human Relations*:

9/18/2024

COMMUNICATIONS, ETC.

15537

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have appointed Mariya Dmytriv as a member of the Advisory Council on New Americans for a term effective immediately and expiring February 19, 2027.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

---

*Referred* -- REAPPOINTMENT OF GERALD A. POLANCO AS MEMBER OF  
ADVISORY COUNCIL ON NEW AMERICANS.

[A2024-0012394]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Health and Human Relations:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Gerald A. Polanco as a member of the Advisory Council on New Americans for a term effective immediately and expiring February 19, 2027.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

---

*Referred* -- REAPPOINTMENT OF KATARINA A. RAMOS AS MEMBER OF  
ADVISORY COUNCIL ON NEW AMERICANS.

[A2024-0012396]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was  
*Referred to the Committee on Health and Human Relations:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Katarina A. Ramos as a member of  
the Advisory Council on New Americans for a term effective immediately and expiring  
February 19, 2027.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

---

*Referred* -- REAPPOINTMENT OF GANIAT SARUMI AS MEMBER OF ADVISORY  
COUNCIL ON NEW AMERICANS.

[A2024-0012397]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was  
*Referred to the Committee on Health and Human Relations:*

9/18/2024

COMMUNICATIONS, ETC.

15539

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Ganiat Sarumi as member of the Advisory Council for a term effective immediately and expiring February 19, 2027.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

---

*Referred* -- APPOINTMENT OF ALI TAROKH AS MEMBER OF ADVISORY COUNCIL ON NEW AMERICANS.

[A2024-0012404]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Health and Human Relations*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have appointed Ali Tarokh as a member of the Advisory Council on New Americans for a term effective immediately and expiring February 19, 2027.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

---

*Referred --* APPOINTMENT OF SHARON BUSH AS COMMISSIONER OF CHICAGO  
PARK DISTRICT.

[A2024-0012406]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was  
*Referred to the Committee on Special Events, Cultural Affairs and Recreation:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have appointed Sharon Bush as a commissioner of the Chicago Park District for a term effective immediately and expiring June 30, 2027, to complete the unexpired term of Myetie H. Hamilton, who has resigned.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

9/18/2024

COMMUNICATIONS, ETC.

15541

*Referred -- REAPPOINTMENT OF JAMES F. ELLIS, JR. AS MEMBER OF PUBLIC BUILDING COMMISSION.*

[A2024-0012412]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Zoning, Landmarks and Building Standards:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed James F. Ellis, Jr. as a member of the Public Building Commission for a term effective immediately and expiring September 30, 2027.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

---

*Referred -- REAPPOINTMENT OF JOSE G. MALDONADO AS MEMBER OF PUBLIC BUILDING COMMISSION.*

[A2024-0012408]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Zoning, Landmarks and Building Standards:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Jose G. Maldonado as a member of the Public Building Commission for a term effective immediately and expiring September 30, 2029.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

---

*Referred --* REAPPOINTMENT OF SAMUEL WM. SAX AS MEMBER OF PUBLIC BUILDING COMMISSION.

[A2024-0012411]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Zoning, Landmarks and Building Standards:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed Samuel Wm. Sax as a member of the Public Building Commission for a term effective immediately and expiring September 30, 2026.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

9/18/2024

COMMUNICATIONS, ETC.

15543

*Referred* -- REAPPOINTMENT OF DAVID T. WHITTLEY AS MEMBER OF PUBLIC BUILDING COMMISSION.

[A2024-0012409]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was *Referred to the Committee on Zoning, Landmarks and Building Standards*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- I have reappointed David T. Whittley as a member of the Public Building Commission for a term effective immediately and expiring September 30, 2029.

Your favorable consideration of this appointment will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

---

*Referred* -- AMENDMENT OF CHAPTER 2-44 OF MUNICIPAL CODE BY ADDING NEW SECTION 2-44-150 AUTHORIZING CEDING OF TAX-EXEMPT PRIVATE ACTIVITY VOLUME CAP TO ILLINOIS HOUSING DEVELOPMENT AUTHORITY AND CHICAGO HOUSING AUTHORITY.

[O2024-0012429]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinance transmitted therewith, *Referred to the Committee on Finance*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Commissioner of Housing, I transmit herewith an ordinance authorizing the ceding of tax-exempt private activity volume cap to the Illinois Housing Development Authority and the Chicago Housing Authority.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

---

*Referred* -- AMENDMENT OF CHAPTER 2-124 OF MUNICIPAL CODE TO END PROCESS OF SUBMITTING ACQUISITIONS, DISPOSITIONS AND CHANGE-IN-USE OF CITY-OWNED LAND TO CHICAGO DEVELOPMENT COMMISSION.

[O2024-0012425]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinance transmitted therewith, *Referred to the Committee on Housing and Real Estate*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Commissioner of Planning and Development, I transmit herewith an ordinance amending the Municipal Code regarding the Chicago Development Commission.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

---

*Referred* -- AMENDMENT OF SECTION 17-4-1006-C OF MUNICIPAL CODE TO ALLOW USE OF FUNDS FOR ADMINISTRATIVE, REPORTING AND MONITORING COSTS AND EXPENSES OF CITYWIDE ADOPT-A-LANDMARK FUND.

[O2024-0012428]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinance transmitted therewith, *Referred to the Committee on Zoning, Landmarks and Building Standards*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Commissioner of Planning and Development, I transmit herewith an ordinance amending the Municipal Code regarding the Adopt-a-Landmark program.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

*Referred* -- AMENDMENT OF CHAPTER 17-12 OF MUNICIPAL CODE BY MODIFYING REGULATIONS FOR SIGNS WITHIN MICHIGAN AVENUE AND STATE STREET/WABASH AVENUE SPECIAL SIGN DISTRICTS.

[O2024-0012427]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinance transmitted therewith, *Referred to the Committee on Zoning, Landmarks and Building Standards*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Commissioner of Planning and Development, I transmit herewith an ordinance amending the Municipal Code regarding the Michigan Avenue and State Street/Wabash Avenue Special Sign Districts.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

---

*Referred* -- ISSUANCE OF FINANCIAL ASSISTANCE TO AND EXECUTION OF REDEVELOPMENT AGREEMENT WITH THE AVE SW LLC FOR ACQUISITION, CONSTRUCTION AND EQUIPPING OF BUILDING AT 3601 -- 3625 W. CHICAGO AVE.

[O2024-0012440]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinance transmitted therewith, *Referred to the Committee on Finance*:

9/18/2024

COMMUNICATIONS, ETC.

15547

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Commissioner of Housing, I transmit herewith an ordinance authorizing the issuance of financial assistance for the redevelopment of a City-owned land located at 3601 -- 3625 West Chicago Avenue.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

---

*Referred* -- ISSUANCE OF FINANCIAL ASSISTANCE TO AND EXECUTION OF REDEVELOPMENT AGREEMENT WITH SACRED APARTMENTS OWNER LLC FOR ACQUISITION, CONSTRUCTION AND EQUIPPING OF LOW-INCOME RESIDENTIAL FACILITIES AT 9212 S. BURLEY AVE.

[O2024-0012435]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinance transmitted therewith, *Referred to the Committee on Finance*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Commissioner of Housing, I transmit herewith an ordinance authorizing the issuance of financial assistance for the Sacred Apartments project.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

---

*Referred* -- ISSUANCE OF FINANCIAL ASSISTANCE TO AND EXECUTION OF REDEVELOPMENT AGREEMENT WITH BROWN DERBY LLC FOR ACQUISITION AND REDEVELOPMENT OF PORTION OF EXISTING BUILDING AT 79 W. MONROE ST.

[O2024-0012437]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinance transmitted therewith, *Referred to the Committee on Finance*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Commissioner of Housing, I transmit herewith an ordinance authorizing the issuance of financial assistance for the adaptive reuse and conversion of the building located at 79 West Monroe Street.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

9/18/2024

COMMUNICATIONS, ETC.

15549

*Referred* -- ISSUANCE OF CITY OF CHICAGO SECOND LIEN WASTEWATER TRANSMISSION REVENUE BONDS REFUNDING SERIES 2024B.

[O2024-0012441]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinance transmitted therewith, *Referred to the Committee on Finance*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Chief Financial Officer, I transmit herewith an ordinance regarding the refunding of the Wastewater Revenue Bond.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

---

*Referred* -- REFUNDING OF GENERAL OBLIGATION/SALES TAX SECURITIZATION CORPORATION BOND, SERIES 2024.

[O2024-0012442]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinance transmitted therewith, *Referred to the Committee on Finance*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Chief Financial Officer, I transmit herewith an ordinance regarding the refunding of the General Obligation/Sales Tax Securitization Corporation Bond.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

---

*Referred* -- INTERGOVERNMENTAL AGREEMENTS WITH CHICAGO BOARD OF EDUCATION FOR PROVISION OF TAX INCREMENT FINANCING ASSISTANCE FUNDS FOR IMPROVEMENTS AT SPECIFIED PUBLIC SCHOOLS.

[O2024-0012430, O2024-0012431, O2024-0012432]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinances transmitted therewith, *Referred to the Committee on Finance*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Commissioner of Planning and Development, I transmit herewith ordinances authorizing the execution of intergovernmental agreements with the Chicago Board of Education regarding the provision of TIF funds for improvements at specified public schools within the City.

9/18/2024

COMMUNICATIONS, ETC.

15551

Your favorable consideration of these ordinances will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

---

*Referred* -- REDEVELOPMENT AGREEMENTS WITH VARIOUS ENTITIES  
TO PROVIDE TAX INCREMENT FINANCING ASSISTANCE FUNDS FOR  
SPECIFIED PROJECTS.

[O2024-0012443, O2024-0012444, O2024-0012445,  
O2024-0012446, O2024-0012447]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinances transmitted therewith, *Referred to the Committee on Finance*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Commissioner of Planning and Development, I transmit herewith ordinances authorizing the execution of redevelopment agreements to provide TIF funds for specified projects within the City.

Your favorable consideration of these ordinances will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

*Referred* -- SUPPLEMENTAL APPROPRIATION AND AMENDMENT OF YEAR 2024 ANNUAL APPROPRIATION ORDINANCE WITHIN FUND NO. 925.

[O2024-0012448]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinance transmitted therewith, *Referred to the Committee on the Budget and Government Operations*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Budget Director, I transmit herewith a Fund Number 925 amendment.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

---

*Referred* -- YEAR 2024 LEVY OF TAXES, APPROVAL OF BUDGETS AND EXECUTION OF SERVICE PROVIDER AGREEMENTS FOR VARIOUS SPECIAL SERVICE AREAS AND PUBLIC HEARINGS REGARDING TERM EXTENSIONS OR ESTABLISHMENTS OF SPECIFIED SPECIAL SERVICE AREAS.

[O2024-0012322, O2024-0012326, O2024-0012329,  
O2024-0012333, O2024-0012335, O2024-0012336,  
O2024-0012338, O2024-0012339, O2024-0012341,  
O2024-0012347, O2024-0012360, O2024-0012370,  
O2024-0012391, O2024-0012423,  
O2024-0012426, O2024-0012433]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinances transmitted therewith, *Referred to the Committee on Economic, Capital and Technology Development*:

9/18/2024

COMMUNICATIONS, ETC.

15553

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Commissioner of Planning and Development, I transmit herewith ordinances approving the budget, authorizing the execution of service agreements and the holding of public hearings regarding term extensions or establishments of specified Special Service Areas.

Your favorable consideration of these ordinances will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

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*Referred --* SUPPORT OF COOK COUNTY CLASS 6(b) TAX INCENTIVES FOR VARIOUS PROPERTIES.

[O2024-0012498, O2024-0012500, O2024-0012501]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinances transmitted therewith, *Referred to the Committee on Economic, Capital and Technology Development:*

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Commissioner of Planning and Development, I transmit herewith ordinances authorizing favorable tax incentives for specified properties located within the City.

Your favorable consideration of these ordinances will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

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*Referred -- SALE OF VARIOUS CITY-OWNED PROPERTIES UNDER ADJACENT NEIGHBORS LAND ACQUISITION PROGRAM.*

[O2024-0012541, O2024-0012539]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinances transmitted therewith, *Referred to the Committee on Housing and Real Estate*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Commissioner of Planning and Development, I transmit herewith ordinances authorizing the sale of City-owned properties.

Your favorable consideration of these ordinances will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

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*Referred -- SALE OF VARIOUS CITY-OWNED PROPERTIES UNDER CHIBLOCKBUILDER ADJACENT NEIGHBORS LAND SALE PROGRAM.*

[O2024-0012535, O2024-0012537, O2024-0012538,  
O2024-0012557, O2024-0012561]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinances transmitted therewith, *Referred to the Committee on Housing and Real Estate*:

9/18/2024

COMMUNICATIONS, ETC.

15555

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Commissioner of Planning and Development, I transmit herewith ordinances authorizing the sale of City-owned properties.

Your favorable consideration of these ordinances will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

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*Referred* -- FINANCIAL RESTRUCTURING, SALE, TRANSFER OF OWNERSHIP AND ASSUMPTION OF CITY DEBT OF PERMANENT SUPPORTIVE LIVING FACILITY AT 8200 S. ELLIS AVE.

[O2024-0012550]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinance transmitted therewith, *Referred to the Committee on Housing and Real Estate*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Commissioner of Housing, I transmit herewith an ordinance allowing the sale, transfer of ownership and assumption of City debt of the permanent supportive living facility located at 8200 South Ellis Avenue.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

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*Referred* – RESTRUCTURING OF HOME LOAN AGREEMENT WITH  
RENAISSANCE ST. LUKE SENIOR LIVING FACILITY L.P. FOR PROPERTY AT  
1501 W. MELROSE ST.

[O2024-0012547]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinance transmitted therewith, *Referred to the Committee on Housing and Real Estate*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Commissioner of Housing, I transmit herewith an ordinance authorizing ownership structure change for Renaissance St. Luke Senior Living Facility L.P.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
*Mayor.*

9/18/2024

COMMUNICATIONS, ETC.

15557

*Referred* -- ACQUISITION OF MIDWAY FLIGHT FACILITY AT 5400 W. 63<sup>RD</sup> ST.  
[O2024-0012556]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinance transmitted therewith, *Referred to the Committee on Housing and Real Estate*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Commissioner of Fleet and Facility Management, I transmit herewith an ordinance authorizing the purchase of the Armory building at Midway Airport.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

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*Referred* -- LEASE OF CITY-OWNED PROPERTIES FOR SPECIFIED PUBLIC  
OUTDOOR PLAZA PROJECTS.

[O2024-0012544; O2024-0012545, O2024-0012571]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinances transmitted therewith, *Referred to the Committee on Housing and Real Estate*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Commissioner of Planning and Development, I transmit herewith ordinances authorizing the lease of City-owned parcels for specified Public Outdoor Plaza projects.

Your favorable consideration of these ordinances will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

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*Referred* -- EXPENDITURE OF OPEN SPACE IMPACT FEE FUNDS FOR DEVELOPMENT OF SPECIFIED PROJECTS WITHIN CITY.

[O2024-0012491, O2024-0012495]

The Honorable Brandon Johnson, Mayor, submitted the following communication which was, together with the proposed ordinances transmitted therewith, *Referred to the Committee on Special Events, Cultural Affairs and Recreation*:

OFFICE OF THE MAYOR  
CITY OF CHICAGO

September 18, 2024.

*To the Honorable, The City Council of the City of Chicago:*

LADIES AND GENTLEMEN -- At the request of the Commissioner of Planning and Development, I transmit herewith ordinances authorizing the expenditure of Open Space Impact Fee funds for specified projects within the City.

Your favorable consideration of these ordinances will be appreciated.

Very truly yours,

(Signed) BRANDON JOHNSON,  
Mayor.

**City Council Informed As To Miscellaneous  
Documents Filed In City Clerk's Office.**

The Honorable Andrea M. Valencia, City Clerk, informed the City Council that documents have been filed in her office relating to the respective subjects designated as follows:

*Placed On File* -- NOTIFICATION AS TO DESIGNATION OF SHARLA ROBERTS AS ADDITIONAL PROXY TO AFFIX SIGNATURE OF MAYOR TO CERTAIN DOCUMENTS AND REVOCATION OF PROXY DESIGNATION OF TIHETA L. HINTON.

[F2024-0011196]

A communication from the Honorable Brandon Johnson, Mayor, under the date of August 1, 2024, received in the Office of the City Clerk on August 1, 2024, designating Sharla Roberts as additional proxy to affix the signature of the Mayor of the City of Chicago to any contract or modification agreement authorized by Illinois Municipal Purchasing Act or Chapter 2-92 of the Municipal Code of Chicago and required to be signed by the Mayor, and revoking the proxy designation of Tiheta L. Hinton, which was *Placed on File*.

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*Placed On File* -- NOTIFICATION OF SALE OF CITY OF CHICAGO MULTI-FAMILY HOUSING REVENUE BONDS (UNITED YARDS 1A PROJECT), SERIES 2024.

[F2024-0011134]

A communication from Jill Jaworski, Chief Financial Officer, under the date of July 24, 2024, received in the Office of the City Clerk on July 24, 2024, transmitting the Notification of sale of City of Chicago Multi-Family Housing Revenue Note (United Yards 1A Project), Series 2024, together with the Acknowledgement of Filing, Terms of Bonds, the Loan Agreement and Bond Indenture, which was *Placed on File*.

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*Placed On File* -- NOTIFICATION OF SALE OF CITY OF CHICAGO GENERAL OBLIGATION BONDS, SERIES 2024A.

[F2024-0011981]

A communication from Jill Jaworski, Chief Financial Officer, under the date of September 4, 2024, received in the Office of the City Clerk on September 4, 2024,

transmitting, pursuant to ordinance authorizing the issuance of the bonds, the Notification of the Sale of City of Chicago General Obligation Bonds, Series 2024A, together with executed copies of the Series 2024A Bond Purchase Agreement, and the Indenture pursuant to which the Series 2024A Bonds are being issued which was *Placed on File*.

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*Placed On File* -- AMENDMENT NO. 1 TO DIVERSEY/CHICAGO TAX INCREMENT FINANCING REDEVELOPMENT PROJECT AND PLAN.

[F2024-0011204]

A communication from Ann Kaplan-Perkins, Supervising Assistant Corporation Counsel, under the date of August 2, 2024, received in the Office of the City Clerk on August 2, 2024, transmitting Amendment Number 1 to the Diversey/Chicago Tax Increment Financing Redevelopment Project and Plan dated July 31, 2024, which was *Placed on File*.

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*Placed On File* -- CODIFICATION AND INSERTION OF PASSED ORDINANCE NUMBER O2024-0008373 AS NEW SECTION 8-4-170 IN CHAPTER 8-4 OF CHICAGO MUNICIPAL CODE.

[F2024-0011335]

A communication from Mary B. Richardson-Lowry, Corporation Counsel, under the date of August 16, 2024, received in the Office of the City Clerk on August 16, 2024, transmitting a directive for codification and insertion of the passed ordinance bearing Clerk's record Number O2024-0008373, found in the April 17, 2024 *Journal of the Proceedings of the City Council of the City of Chicago* on pages 11092 to 11096, and currently in effect, as a new Section 8-4-170 of Chapter 8-4 of the Chicago Municipal Code, which was *Placed on File*.

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*Placed On File* -- OFFICE OF INSPECTOR GENERAL'S AUDIT REPORT OF DEPARTMENT OF FINANCE'S CIVILIAN WORKERS' COMPENSATION PROGRAM ADMINISTRATION.

[F2024-0011179]

A communication from the Office of the Inspector General, under the date of July 31, 2024, received in the Office of the City Clerk on July 30, 2024, transmitting the

Inspector General's audit report concerning Department of Finance's Civilian Workers' Compensation Program Administration, which was *Placed on File*.

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*Placed On File* -- OFFICE OF INSPECTOR GENERAL'S REPORT REGARDING SWORN CHICAGO POLICE DEPARTMENT MEMBERS ASSIGNED WITH PATROL DUTIES.

[F2024-0011143]

A communication from the Office of the Inspector General, under the date of July 25, 2024, received in the Office of the City Clerk on July 24, 2024, transmitting the Inspector General's audit report of sworn Chicago Police Department members assigned with patrol duties, which was *Placed on File*.

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*Placed On File* -- OFFICE OF INSPECTOR GENERAL'S ADVISORY ON CITY'S MONITORING OF CONCESSIONAIRE AGREEMENTS FOR COMPLIANCE WITH MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE REQUIREMENTS.

[F2024-0012164]

A communication from the Office of the Inspector General, under the date of September 10, 2024, received in the Office of the City Clerk on September 9, 2024, transmitting the Inspector General's advisory on the City's monitoring of concessionaire agreements for compliance with minority- and women-owned business enterprise requirements set forth in the 2008 concessionaire agreement between the City and Chicago Parking Meters LLC, which was *Placed on File*.

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*Placed On File* -- OFFICE OF INSPECTOR GENERAL'S YEAR 2023 ANNUAL PUBLIC SAFETY SECTION REPORT.

[F2024-0011208]

A communication from the Office of the Inspector General, under the date of August 5, 2024, received in the Office of the City Clerk on August 5, 2024, transmitting the Annual Public Safety Section Report for Year 2023, which was *Placed on File*.

*Placed On File* -- OFFICE OF INSPECTOR GENERAL'S REPORT ENTITLED "CHICAGO'S CAMPAIGN FINANCE RULES: AN EXPLAINER ON LAW AND ITS GAPS".

[F2024-0012316]

A communication from the Office of the Inspector General, under the date of September 17, 2024, received in the Office of the City Clerk on September 16, 2024, transmitting a report entitled "Chicago's Campaign Finance Rules: An Explainer On The Law And Its Gaps", which was *Placed on File*.

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**City Council Informed As To Certain Actions Taken.**

**PUBLICATION OF JOURNAL.**

The City Clerk informed the City Council that all those ordinances, et cetera, which were passed by the City Council on July 17, 2024 and which were required by statute to be published in book or pamphlet form or in one or more newspapers, were published in pamphlet form on September 18, 2024 by being printed in full text in printed pamphlet copies of the *Journal of the Proceedings of the City Council of the City of Chicago* of the regular meeting held on July 17, 2024, published by authority of the City Council, in accordance with the provisions of Title 2, Chapter 12, Section 050 of the Municipal Code of Chicago, as passed on June 27, 1990.

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**Miscellaneous Communications, Reports, Et Cetera,  
Requiring Council Action (Transmitted To  
City Council By City Clerk).**

The City Clerk transmitted communications, reports, et cetera, relating to the respective subjects listed below, which were acted upon by the City Council in each case in the manner noted, as follows:

*Referred* -- ZONING RECLASSIFICATIONS OF PARTICULAR AREAS.

Applications (in triplicate) together with the proposed ordinances for amendment of Title 17 of the Municipal Code of Chicago (the Chicago Zoning Ordinance), as amended, for the purpose of reclassifying particular areas, which were *Referred to the Committee on Zoning, Landmarks and Building Standards*, as follows:

AGGLP Investments LLC (Application Number 22537) -- to classify as a C2-1 Motor Vehicle-Related Commercial District instead of an RS3 Residential Single-Unit (Detached House) District the area shown on Map Number 8-H bounded by:

a line 384 feet south of and parallel to West 33<sup>rd</sup> Street; South Damen Avenue; the northeasterly right-of-way line of the Gulf, Mobile and Ohio Railroad; and the public alley next west of and parallel to South Damen Avenue (common address: 3338 South Damen Avenue).

[O2024-0012195]

Betsabe Aguayo (Application Number 22555) -- to classify as a B2-2 Neighborhood Mixed-Use District instead of a B3-2 Community Shopping District the area shown on Map Number 4-K bounded by:

West 16<sup>th</sup> Street; a line 74.00 feet west of and parallel to South Karlov Avenue; the public alley next south and parallel to West 16<sup>th</sup> Street; a line 98 feet west of and parallel to South Karlov Avenue (common address: 4109 West 16<sup>th</sup> Street).

[O2024-0012513]

Base 3 Development, Inc. (Application Number 22553T1) -- to classify as a DR-5 Downtown Residential District instead of a DS-5 Downtown Service District the area shown on Map Number 2-G bounded by:

West Gladys Avenue; a line 128 feet west of South Racine Avenue, as measured along the south line of West Gladys Avenue and perpendicular thereto; West Van Buren Street; and a line 244.6 feet west of South Racine Avenue, as measured along the north line of West Van Buren Street and perpendicular thereto (common address: 1220 West Van Buren Street).

[O2024-0012508]

Broadmoor LLC (Application Number 22571) -- to classify as an RM4.5 Residential Multi-Unit District instead of an RM5 Residential Multi-Unit District and RM4.5 Residential Multi-Unit District the area shown on Map Number 13-H bounded by:

the public alley next north of and parallel to West Ainslie Street; North Oakley Avenue; West Ainslie Street; and a line 140 feet west of and parallel to North Oakley Avenue (common address: 2310 West Ainslie Street).

[O2024-00012533]

Chicago Title & Trust Company (Trust Number 8002392671) (Application Number 22552) -- to classify as a B1-2 Neighborhood Shopping District instead of an RT4 Residential Two-Flat, Townhouse and Multi-Unit District the area shown on Map Number 1-I bounded by:

West Maypole Avenue; a line 392.1 feet west of and parallel to North Talman Avenue; a line 110 feet south of and parallel to West Maypole Avenue; a line 376.1 feet west of and parallel to North Talman Avenue; West Washington Boulevard; and a line 530.36 feet west of and parallel to North Talman Avenue (common address: 2678 West Washington Boulevard).

[O2024-0012507]

Commonwealth Development Partners LLC (Application Number 22532) -- to classify as Planned Development Number 487, as amended, instead of Planned Development Number 487 the area shown on Map Number 1-E bounded by:

the public alley north of and parallel to East Illinois Street; North Michigan Avenue (lower); East Illinois Street; and a line 165.35 feet west of and parallel to East Illinois Street (common address: 500 North Michigan Avenue).

[O2024-0012174]

CT Land Trust Co. (Number 8002376099) (Application Number 22563) -- to classify as a C1-1 Neighborhood Commercial District instead of a B1-1 Neighborhood Shopping District the area shown on Map Number 11-J bounded by:

a line 94.32 feet south of and parallel to West Sunnyside Avenue; a line 133.66 feet east of and parallel to North Pulaski Road; a line 494.32 feet south of and parallel to West Sunnyside Avenue; and North Pulaski Road (common address: 4415 -- 4453 North Pulaski Road).

[O2024-0012525]

FFLL Limited Liability Company (Application Number 22567) -- to classify as an M3-2 Heavy Industry District instead of an M1-2 Limited Manufacturing/Business Park District the area shown on Map Number 2-L bounded by:

the alley next north of and parallel to West Flournoy Street; the alley next west of and parallel to South Cicero Avenue; West Flournoy Street; and a line 255.1 feet west of and parallel to South Cicero Avenue (common address: 4814 -- 4822 West Flournoy Street).

[O2024-00012529]

Fulton Peoria JV LLC (Application Number 22533) -- to classify as a DX-5 Downtown Mixed-Use District instead of a C1-1 Neighborhood Commercial District and C1-2 Neighborhood Commercial District and, further, to classify as a Business Planned Development instead of a DX-5 Downtown Mixed-Use District the area shown on Map Number 1-G bounded by:

West Fulton Market; a line 150.65 feet east of and parallel to North Sangamon Street; a line 99.90 feet south of and parallel to West Fulton Market; a line 125.52 feet east of and parallel to North Sangamon Street; a line 186.16 feet south of and parallel to West Fulton Market; North Peoria Street; West Lake Street; and North Sangamon Street (common address: 911 -- 925 West Fulton Market; 200 -- 212 North Peoria Street; 900 -- 924 West Lake Street; and 201 -- 233 North Sangamon Street).

[O2024-0012181]

Erik Giles (Application Number 22538T1) -- to classify as an RT3.5 Residential Two-Flat, Townhouse and Multi-Unit District instead of an M1-2 Limited Manufacturing/Business Park District the area shown on Map Number 7-H bounded by:

a line 263.75 feet south of and parallel to the south line of West Nelson Street; the west line of North Oakley Avenue; a line 288.75 feet south of and parallel to the south line of West Nelson Street; and the alley next west and parallel to North Oakley Avenue (common address: 2966 North Oakley Avenue).

[O2024-0012201]

Maria D. Gonzalez (Application Number 22544T1) -- to classify as an RM5 Residential Multi-Unit District instead of an RT4 Residential Two-Flat, Townhouse and Multi-Unit District the area shown on Map Number 6-I bounded by:

a line 232.00 feet north of and parallel to West 25<sup>th</sup> Street; the public alley next east of and parallel to South Troy Street; a line 208 feet north of and parallel to West 25<sup>th</sup> Street; and South Troy Street (common address: 2437 South Troy Street).

[O2024-0012334]

Hightech Building LLC (Application Number 22557) -- to classify as a C2-2 Motor Vehicle-Related Commercial District instead of a B3-1 Community Shopping District the area shown on Map Number 16-I bounded by:

a line 225 feet south of and parallel to West Marquette Road; South Western Avenue; a line 400 feet south of and parallel to West Marquette Road; and the public alley next west of and parallel with South Western Avenue (common address: 6738 South Western Avenue).

[O2024-0012519]

KJOS Properties LLC (Application Number 22569T1) -- to classify as a C1-2 Neighborhood Commercial District instead of an M1-2 Limited Manufacturing/Business Park District the area shown on Map Number 76-B bounded by:

a line from a point 164.98 feet southwest of the intersection of North Clybourn Avenue and North Southport Avenue, as measured at the southwesterly right-of-way line of North Clybourn Avenue and perpendicular thereto; and a line from a point 67.50 feet perpendicular to North Clybourn Avenue (Common Address: 2144 -- 2156 North Clybourn Avenue).

[O2024-0012531]

Latitude Capital Investments LLC (Application Number 22549) -- to classify as an RS3 Residential Single-Unit (Detached House) District instead of an RS2 Residential Single-Unit (Detached House) District the area shown on Map Number 22-E bounded by:

East 88<sup>th</sup> Place; a line 121 feet west of and parallel to South St. Lawrence Avenue; the public alley south of and parallel to East 88<sup>th</sup> Place; and then a line 152 feet west of and parallel to South St. Lawrence Avenue (common address: 545 East 88<sup>th</sup> Place).

[O2024-0012504]

Yasmin Lopez (Application Number 22556) -- to classify as a C1-1 Neighborhood Commercial District instead of a B1-2 Neighborhood Shopping District the area shown on Map Number 16-G bounded by:

a line 197 feet north of and parallel to West Marquette Road; South Halsted Street; a line 172 feet north of and parallel to West Marquette Road; and the public alley next west of and parallel to South Halsted Street (common address: 6640 South Halsted Street)

[O2024-0012514]

Maslanka Investments LLC (Application Number 22568T1) -- to classify as an RM4.5 Residential Multi-Unit District instead of an RS3 Residential Single-Unit (Detached House) District the area shown on Map Number 9-I bounded by:

a line 316 feet north of and parallel to West School Street; a line 125.70 feet east of and parallel to North Whipple Street; a line 245 feet north of and parallel to West School Street; and North Whipple Street (common address: 3325 -- 3331 North Whipple Street).

[O2024-00012530]

Erik Myrold (Application Number 22570T1) -- to classify as an RM4.5 Residential Multi-Unit District instead of an RS3 Residential Single-Unit (Detached House) District the area shown on Map Number 17-G bounded by:

a line 56.44 feet south of and parallel to West Arthur Avenue; the public alley east of and parallel to North Bosworth Avenue; a line 87.44 feet south of and parallel to West Arthur Avenue; and North Bosworth Avenue (common address: 6453 North Bosworth Avenue).

[O2024-0012532]

North Park Elementary School Association (Application Number 22562) -- to classify as an RT4 Residential Two-Flat, Townhouse and Multi-Unit District instead of an RS3 Residential Single-Unit District and a B1-1 Neighborhood Shopping District the area shown on Map Number 11-H bounded by:

West Montrose Avenue; the public alley next west of and parallel to North Damen Avenue; the public alley next south of and parallel to West Montrose Avenue; and a line 200.0 feet west of and parallel to the public alley next west of and parallel to North Damen Avenue (common address: 2015 -- 2033 West Montrose Avenue).

[O2024-0012524]

NWC 320 W. Huron LLC (Application Number 22561) -- to classify as a DX-5 Downtown Mixed-Use District instead of Residential-Business Planned Development Number 1338 the area shown on Map Number 1-F bounded by:

the public alley next north of and parallel to West Huron Street; North Franklin Avenue; West Huron Street; and North Orleans Street (common address: 701 -- 711 North Orleans Street; 300 -- 330 West Huron Street; and 700 -- 710 North Franklin Avenue).

[O2024-0012523]

Juan C. Patino (Application Number 22545) -- to classify as an M2-2 Light Industry District instead of an M1-2 Limited Manufacturing/Business Park District the area shown on Map Number 22-F bounded by:

West 89<sup>th</sup> Street; a line 46.26 feet in length perpendicular to West 89<sup>th</sup> Street; a line 298.27 feet in length commencing at a point 46.26 feet south of West 89<sup>th</sup> Street; a line 188.75 feet in length; and a line 454.99 feet in length perpendicular to West 89<sup>th</sup> Street commencing at a point 191.70 feet east of South Yale Avenue (common address: 225 West 89<sup>th</sup> Street).

[O2024-0012344]

QTS Investment Properties Chicago LLC (Application Number 22536) -- to classify as Riveredge-Manufacturing Planned Development Number 553, as amended, instead of Riveredge-Manufacturing Planned Development Number 553 the area shown on Map Number 3-F bounded by:

South Ashland Avenue; a line beginning at a point along the west line of South Ashland Avenue 1,175 feet south of the south dock line of the west fork of the south branch of the Chicago River and running south 88 degrees, 12 minutes, 53 seconds west, 956.03 feet to the point of curvature; thence southwesterly 349.59 feet along the arc of a circle convex to the northwest having a radius of 445.10 feet and whose chord bears south 65 degrees, 42 minutes, 51 seconds west, 340.67 feet to a point of tangency; thence south 43 degrees, 12 minutes, 49 seconds west, 77.88 feet to a point of curvature; thence southwesterly 208.38 feet along the arc of a circle convex to the southeast having a radius of 534.80 feet and whose chord bears south 54 degrees, 22 minutes, 34 seconds west, 207.07 feet to a point that is 1,492.04 feet west of the west line of South Ashland Avenue; thence north 01 degree, 22 minutes, 55 seconds west, on said east line, 65.62 feet; thence northeasterly 123.16 feet along the arc of a circle convex to the southeast having a radius of 380.00 feet and whose chord

bears north 61 degrees, 20 minutes, 56 seconds east, 122.63 feet; to a point that is 1,383.40 feet west of the west line; thence north 01 degree, 22 minutes, 55 seconds west, a distance of 822.71 feet to a point on a line drawn 50 feet south of and parallel to the south dock line of the west fork of the south branch of the Chicago River; thence north 63 degrees, 53 minutes, 26 seconds east along the aforesaid parallel line a distance of 519.62 feet; thence north 66 degrees, 46 minutes, 06 seconds east along the aforesaid parallel line a distance of 443.22 feet; thence a line extending north 86 degrees, 07 minutes, 06 seconds east a distance of 448.48 feet to a point that is 65.00 feet west of the west line of South Ashland Avenue; thence a line extending south 01 degree, 32 minutes, 14 seconds east, a distance of 225.19 feet; thence a line extending north 86 degrees, 07 minutes, 06 seconds east a distance of 65.05 feet to the west line of South Ashland Avenue; thence south 01 degree, 32 minutes, 14 seconds east, a distance of 259.71 feet, thence south 01 degree, 14 minutes, 18 seconds east 553.15 feet, to the point of beginning, in Cook County, Illinois (common address: 2800 South Ashland Avenue).

[O2024-0012184]

The Renaissance Collaborative, Inc. (Application Number 22547T1) -- to classify as an RM6 Residential Multi-Unit District instead of an RM5 Residential Multi-Unit District the area shown on Map Number 12-E bounded by:

East 53<sup>rd</sup> Street; South Calumet Avenue; a line 204.25 feet south of and parallel to East 53<sup>rd</sup> Street; and a line 150.75 feet west of and parallel to South Calumet Avenue (common address: 323 -- 335 East 53<sup>rd</sup> Street; and 5300 -- 5318 South Calumet Avenue).

[O2024-0012356]

Christian Sandoval (Application Number 22559) -- to classify as a C1-1 Neighborhood Commercial District instead of a B1-1 Neighborhood Shopping District the area shown on Map Number 5-K bounded by:

the public alley next north and parallel to West North Avenue; a line 108 feet east of and parallel to North Kedvale Avenue; West North Avenue; and a line 83 feet east of and parallel to North Kedvale Avenue (common address: 4116 West North Avenue).

[O2024-0012521]

Sustainabuild LLC -- 2756 (Application Number 22572T1) -- to classify as a C1-3 Neighborhood Commercial District instead of a C1-2 Neighborhood Commercial District the area shown on Map Number 3-I bounded by:

the public alley next north of and parallel to West Chicago Avenue; a line 50.70 feet east of and parallel to North California Avenue; West Chicago Avenue; and North California Avenue (common address: 2754 -- 2756 West Chicago Avenue).

[O2024-0012534]

SWOP 6301 LLC (Application Number 22547T1) -- to classify as a B2-3 Neighborhood Mixed-Use District instead of a B1-2 Neighborhood Shopping District the area shown on Map Number 16-H bounded by:

West 63<sup>rd</sup> Street; a line 100.96 feet east of and parallel to the east line of South Western Avenue, as measured along the south line of West 63<sup>rd</sup> Street; the public alley next south of West 63<sup>rd</sup> Street; and South Western Avenue (common address: 6301 South Western Avenue).

[O2024-0012471]

T & G Squared LLC (Application Number 22539T1) -- to classify as a B2-3 Neighborhood Mixed-Use District instead of a B3-2 Community Shopping District the area shown on Map Number 1-G bounded by:

the alley next north of and parallel to West Race Avenue; a line 216 feet east of and parallel to North Elizabeth Avenue; West Race Avenue; and a line 192 feet east of and parallel to North Elizabeth Avenue (common address: 1228 West Race Avenue).

[O2024-0012247]

United Center Joint Venture (Application Number 22535) -- to classify as a C1-5 Neighborhood Commercial District instead of Stadium Planned Development Number 522, Residential-Business Planned Development Number 1077, RT4 Residential Two-Flat, Townhouse and Multi-Unit District, RM-5 Residential Multi-Unit District, B1-3 Neighborhood Shopping District, B3-1 Community Shopping District, B3-3 Community Shopping District, C1-2 Neighborhood Commercial District and C1-3 Neighborhood Commercial District and, further, to classify as Stadium Residential-Business Planned Development Number 522, as amended, instead of a C1-5 Neighborhood Commercial District the area shown on Map Number 2-H bounded by:

North Ashland Avenue; West Madison Street; a line 97.88 feet east of and parallel to North Paulina Street; the public alley north of and parallel to West Madison Street; a line 43 feet west of and parallel to North Paulina Street; West Madison Street; North Paulina Street; the public alley south of and parallel to West Monroe Street; the public alley west of and parallel to North Paulina Street; a line 163.4 feet north of and parallel to West Adams Street; a line 176.48 feet west of and parallel to South Paulina Street; West Adams Street; North Wood Street; a line 431.2 feet north of and parallel to West Adams Street; South Honore Street; West Adams Street; a line 25 feet east of and parallel to South Honore Street; a line 100 feet south of and parallel to West Adams Street; a line 215.50 feet west of and parallel to North Wood Street; West Adams Street; a line 96.50 feet west of and parallel to North Wood Street; the public alley south of and parallel to West Adams Street; South Honore Street; a line 22.5 feet north of and parallel to the public alley south of and parallel to West Adams Street; a line 74 feet west of and parallel to South Honore Street; the public alley south of and parallel to West Adams Street; South Wolcott Avenue; West Adams Street; a line 84.05 feet east of and parallel to South Seeley Avenue; the

public alley north of and parallel to West Adams Street; the public alley west of and parallel to South Damen Avenue; a line 177 feet north of and parallel to West Adams Street; South Seeley Avenue; the public alley south of and parallel to West Madison Street; a line 132.58 feet west of and parallel to South Seeley Avenue; West Madison Street; a line 240 feet east of and parallel to North Hoyne Avenue; the public alley north of and parallel to West Madison Street; a line 327.15 feet west of and parallel to North Damen Avenue; West Warren Boulevard; a line 300.90 feet east of and parallel to North Hoyne Avenue; the public alley north of and parallel to West Warren Boulevard; a line 236.74 feet west of and parallel to North Damen Avenue; West Warren Boulevard; a line 75.25 feet east of and parallel to North Damen Avenue; the public alley north of and parallel to West Warren Boulevard; a line 112.77 feet east of and parallel to North Damen Avenue; West Washington Boulevard; a line 275.27 feet east of and parallel to North Damen Avenue; the public alley north of and parallel to West Warren Boulevard; a line 314.27 feet east of and parallel to North Damen Avenue; West Washington Boulevard; a line 130.83 feet west of and parallel to North Wolcott Street; the public alley north of and parallel to West Warren Boulevard; North Wolcott Street; West Washington Boulevard; North Wood Street; West Warren Boulevard; North Hermitage Avenue; West Washington Boulevard; a line 60.11 feet east of and parallel to North Hermitage Avenue; West Warren Boulevard; a line 179.49 feet east of and parallel to North Paulina Street; and the public alley south of and parallel to West Warren Boulevard (common address: 1901 West Madison Street).

[O2024-0012317]

Unlimited Transmissions & Repair Inc. (Application Number 22548T1) -- to classify as a C1-1 Neighborhood Commercial District instead of a B1-1 Neighborhood Shopping District the area shown on Map Number 11-J bounded by:

a line 250.0 feet north of and parallel to West Wilson Avenue; the public alley next east of and parallel to North Pulaski Road; and a line 150.0 feet north of and parallel to West Wilson Avenue (common address: 4617 -- 4623 North Pulaski Road).

[O2024-0012502]

Sonia Vega (Application Number 22550) -- to classify as an RT3.5 Residential Two-Flat, Townhouse and Multi-Unit District instead of an RS3 Residential Single-Unit (Detached House) District the area shown on Map Number 5-J bounded by:

a line 81.00 feet south of and parallel to West Wabansia Avenue; the public alley next east of and parallel to North Spaulding Avenue; a line 108.00 feet south of and parallel to West Wabansia Avenue; and North Spaulding Avenue (common address: 1649 North Spaulding Avenue).

[O2024-0012505]

4Corners LLC (Application Number 22566T1) -- to classify as a B2-3 Neighborhood Mixed-Use District instead of a B3-2 Community Shopping District the area shown on Map Number 9-H bounded by:

West Grace Street; the public alley next east of and parallel to North Western Avenue; a line 90 feet south of and parallel to West Grace Street; and North Western Avenue (common address: 3751 -- 3759 North Western Avenue / 2347 -- 2357 West Grace Street).

[O2024-0012528]

208 LaSalle Owner LLC (Application Number 22540) -- to classify as a DC-16 Downtown Core District instead of Business Planned Development 291 the area shown on Map Number 2-F bounded by:

West Adams Street; South LaSalle Street; a line 185.94 feet south of and parallel to West Adams Street; and South Wells Street (common address: 208 South LaSalle Street).

[O2024-0012320]

912 North Richmond LLC (Application Number 22558T1) -- to classify as an RM5 Residential Multi-Unit District instead of an RS3 Residential Single-Unit (Detached House) District the area shown on Map Number 3-I bounded by:

a line 150.28 feet north of and parallel to West Walton Street; North Richmond Street; a line 125.28 feet north of and parallel to West Walton Street; and the public alley next west of and parallel to North Richmond Street (common address: 912 North Richmond Street).

[O2024-0012520]

1239 North Wood Chicago LLC (Application Number 22564T1) -- to classify as an RS3 Residential Single-Unit (Detached House) District instead of an RM5.5 Residential Multi-Unit District the area shown on Map Number 3-H bounded by:

West Potomac Avenue; a line 144.00 feet east of and parallel to North Wood Street; the public alley next south of and parallel to West Potomac Avenue; and North Wood Street (common address: 1239 North Wood Street).

[O2024-0012526]

1325 West Fulton LLC (Application Number 22531) -- to classify as a DX-7 Downtown Mixed-Use District instead of an M2-3 Light Industry District and, further, to classify as a Residential-Business Planned Development instead of a DX-7 Downtown Mixed-Use District the area shown on Map Number 1-G bounded by:

West Fulton Street; North Elizabeth Street; a line 165.74 feet south of and parallel to West Fulton Street; and North Ada Street (common address: 1325 West Fulton Street).

[O2024-0012169]

2052 West 21<sup>st</sup> Street LLC (Application Number 22542T1) -- to classify as a B2-3 Neighborhood Mixed-Use District instead of a B3-2 Neighborhood Commercial District the area shown on Map Number 4-H bounded by:

the alley next north of and parallel to West 21<sup>st</sup> Street; a line 75.00 feet east of and parallel to South Hoyne Avenue; West 21<sup>st</sup> Street; and a line 50.00 feet east of and parallel to South Hoyne Avenue (common address: 2052 West 21<sup>st</sup> Street).

[O2024-0012331]

2113 North Kenmore LLC (Application Number 22551T1) -- to classify as an RM5 Residential Multi-Unit District instead of an RT4 Residential Two-Flat, Townhouse and Multi-Unit District the area shown on Map Number 5-G bounded by:

a line 150.00 feet north of and parallel to the north line of West Dickens Avenue; the alley next east of and parallel to North Kenmore Avenue; a line 125.00 feet north of and parallel to the north line of West Dickens Avenue; and the east line of North Kenmore Avenue (common address: 2113 North Kenmore Avenue).

[O2024-0012506]

2135 Cermak LLC (Application Number 22541T1) -- to classify as a B2-3 Neighborhood Mixed-Use District instead of a B3-2 Community Shopping District the area shown on Map Number 6-H bounded by:

West Cermak Road; a line 325 feet west of and parallel to South Hoyne Avenue; the alley south of and parallel to West Cermak Road; and a line 375 feet west of and parallel to South Hoyne Avenue (common address: 2135 West Cermak Road).

[O2024-0012330]

2247 West Lawrence LLC (Application Number 22554T1) -- to classify as a B2-5 Neighborhood Mixed-Use District instead of a B2-3 Neighborhood Mixed-Use District the area shown on Map Number 11-H bounded by:

West Lawrence Avenue; a line 150.0 feet east of and parallel to North Oakley Avenue; the public alley next south of and parallel to West Lawrence Avenue; and a line 90.16 feet east of and parallel to North Oakley Avenue (common address: 2247 -- 2249 West Lawrence Avenue).

[O2024-0012509]

3244 -- 50 Bryn Mawr LLC (Application Number 22565T1) -- to classify as a B2-3 Neighborhood Mixed-Use District instead of a B2-3 Neighborhood Mixed-Use District the area shown on Map Number 15-J bounded by:

the public alley next north of and parallel to West Bryn Mawr Avenue; a line 158.00 feet east of and parallel to North Spaulding Avenue; West Bryn Mawr Avenue; and a line 58.00 feet east of and parallel to North Spaulding Avenue (common address: 3244 -- 3250 West Bryn Mawr Avenue).

[O2024-0012527]

3300 North Clark LLC (Application Number 22534) -- to classify as Residential Business Planned Development 1404, as amended, instead of Residential Business Planned Development 1401 the area shown on Map Number 9-G bounded by:

beginning at a line 196.8 feet northwest of the intersection of North Clark Street and West School Street, as measured at the southwesterly right-of-way line of North Clark Street and perpendicular thereto; North Clark Street; West School Street; and the alley west of and parallel to North Clark Street running northwest to the point of beginning (common address: 3300 North Clark Street).

[O2024-0012182]

5824 North Lincoln LLC (Application Number 22543T1) -- to classify as a B2-3 Neighborhood Mixed-Use District instead of a B3-2 Community Shopping District the area shown on Map Number 15-I bounded by:

North Lincoln Avenue; a line 144.89 feet southeast of and parallel to North Richmond Street; the public alley next southwest of and parallel to North Lincoln Avenue; and a line 88.89 feet southeast of and parallel to North Richmond Street (common address: 5824 North Lincoln Avenue).

[O2024-0012332]

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*Referred* -- CLAIMS AGAINST CITY OF CHICAGO.

Claims against the City of Chicago, which were *Referred to the Committee on Finance*, filed by the following:

Agnew, Brian K.	[CL2024-0012154]
Albina, Agnieszka	[CL2024-0011285]
Allstate Insurance and Herbst, Tami	[CL2024-0011293]
Andrakhevych, Marian	[CL2024-0011270]
Arroyo Romero, Anallely I.	[CL2024-0011295]
Bahena, Rogelio	[CL2024-0011305]
Banks, Charles E.	[CL2024-0011301]
Bavaro, Kathy A.	[CL2024-0012060]

Bell, Christopher	[CL2024-0012058]
Bielanska, Bronislawa	[CL2024-0011259]
Blejski, Daniel E.	[CL2024-0011370]
Collins, George R.	[CL2024-0011331]
Connor, Charles E.	[CL2024-0011358]
Cooks, Walter R.	[CL2024-0011279]
Crump, Diamond D.	[CL2024-0011332]
Cruz, Joann T.	[CL2024-0011333]
Cyrus, Kyle T.	[CL2024-0012047]
Davis, Vanessa R.	[CL2024-0012057]
Deanes, Athenia D.	[CL2024-0011316]
Devlin, Brian P.	[CL2024-0011289]
Doss, Steven	[CL2024-0011336]
Fumagalli, Sophia	[CL2024-0011268]
Goodman, Mitch A.	[CL2024-0011368]
Goodwin, Amy	[CL2024-0012042]
Goss, Patrick T.	[CL2024-0011317]
Gray, Danny W.	[CL2024-0011304]
Gulmatico, Jhoanna D.	[CL2024-0011334]
Guzman, Heriberto, Jr.	[CL2024-0011361]
Heilman, Andrea L.	[CL2024-0011342]
Herrero, Rina M. and Figueroa, Jan A.	[CL2024-0012153]
Hinton, Tamika S.	[CL2024-0011365]
Hohenadel, Donald J.	[CL2024-0011278]

Ijom, Diego	[CL2024-0012063]
Iskalis, Andreas J.	[CL2024-0012045]
Jackson, Gillian A.	[CL2024-0011359]
Jean-Pierre, Mildred	[CL2024-0011260]
Jones, Gabrielle L.	[CL2024-0012040]
Juarbe, Henrietta V.	[CL2024-0011302]
Karri, Siddhartha R.	[CL2024-0011267]
Kayanan, Daryl Martin E.	[CL2024-0011282]
Khlibkevych, Volodymyr	[CL2024-0011303]
Kilchenmann, Lara	[CL2024-0012036]
Kingston, Tim A.	[CL2024-0011380]
Laramore, Lori A.	[CL2024-0012056]
Lawrence, Wookyung N.	[CL2024-0011313]
Lee, Elisa Y.	[CL2024-0011350]
Lindsey, Terrese D.	[CL2024-0011271]
Loving, Nathaniel	[CL2024-0011264]
Maldonado, Mildred	[CL2024-0011273]
Medala, Sebastian	[CL2024-0011326]
Mendez, Jose A.	[CL2024-0012039]
Merrill, Lee A.	[CL2024-0011306]
Navarro, David	[CL2024-0011375]
Northington, Christopher J.	[CL2024-0011324]
Onisemoh, Jeminat A.	[CL2024-0011298]

Ontiveros, Rene T.	[CL2024-0011291]
Ortega, Elvis	[CL2024-0012043]
Padilla, Nayeli A.	[CL2024-0011363]
Pagoria, Terry L.	[CL2024-0011339]
Parra, Flavio	[CL2024-0012027]
Paulson, Susan M.	[CL2024-0011266]
Payne, Lauryn A.	[CL2024-0011300]
Pearson Gaye, Corrine	[CL2024-0012067]
Petrescu, Daniel F.	[CL2024-0011288]
Pocius, Leo F.	[CL2024-0011352]
Price, Katrina C.	[CL2024-0012064]
Primer, Faith R.	[CL2024-0012068]
Progressive Insurance and Osorio, Evelyn	[CL2024-0011281]
Raddatz, Marlene	[CL2024-0011341]
Repasi, James K.	[CL2024-0011330]
Rhodes, April T.	[CL2024-0011378]
Rigo Haug, Pere Marc	[CL2024-0011296]
Rios, Lourdes D.	[CL2024-0012066]
Rivera, Patricia P.	[CL2024-0011272]
Rosenthal, Andrew S.	[CL2024-0011323]
Rosso, Daniele	[CL2024-0011265]
Safeco Insurance and Wackerman, Brian	[CL2024-0011294]
Salazar, Jose Gabriel	[CL2024-0011360]
Sanchez, Eduardo J.	[CL2024-0012046]
Scanio, Nora A.	[CL2024-0012034]

Serpico, Tylor J.	[CL2024-0011338]
State Farm Insurance and Bader, Emran (Patrick Bryant)	[CL2024-0011269]
State Farm Insurance and Bajramovic, Nerma	[CL2024-0012032]
State Farm Insurance and Johnson, Charlene	[CL2024-0012030]
Stevens, Linda J.	[CL2024-0011337]
Sutthisasanakul, Surachai	[CL2024-0011307]
Torres, Raquel	[CL2024-0011340]
Treese, Michael	[CL2024-0011297]
United Subrogation Associates and Espinoza-Hernandez, Karla C.	[CL2024-0012062]
Vazquez-Caban, Nancy	[CL2024-0011280]
Ward, Renita Q.	[CL2024-0011349]
Wertz, Brandon M.	[CL2024-0011283]
Wu, Ruimei	[CL2024-0011362]
Yoblon, Andrew K.	[CL2024-0011405]
Zhu, Hui	[CL2024-0011314]

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*Referred* -- RECOMMENDATION BY COMMISSION ON CHICAGO LANDMARKS FOR DESIGNATION OF MARS CANDY FACTORY AT 2019 N. OAK PARK AVE. AS CHICAGO LANDMARK.

[O2024-0011694]

A communication from Kathleen E. Dickhut, Deputy Commissioner, Bureau of Citywide Planning, Department of Planning and Development, under the date of August 28, 2024 and received in the Office of the City Clerk on August 28, 2024, transmitting the Commission on Chicago Landmarks' recommendation, together with a proposed ordinance for designation of Mars Candy Factory at 2019 North Oak Park Avenue as a Chicago landmark, which was *Referred to the Committee on Zoning, Landmarks and Building Standards*.

**REPORTS OF COMMITTEES.**

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**COMMITTEE ON FINANCE.**

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ISSUANCE OF GOVERNMENTAL NOTE, CONSTRUCTION LOAN, TAX INCREMENT FINANCING GRANT AND OTHER FINANCIAL ASSISTANCE TO AND EXECUTION OF REDEVELOPMENT AGREEMENT WITH CARE MANOR I L.P. FOR ACQUISITION, LEASE, CONSTRUCTION, DEVELOPMENT AND EQUIPMENT OF AFFORDABLE RESIDENTIAL HOUSING AT 4531 -- 4533 AND 4549 -- 4555 W. WASHINGTON BLVD.

[O2024-0010978]

The Committee on Finance submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on Finance, to which was referred an ordinance concerning the issuance of financial assistance and execution of a tax increment financing (TIF) redevelopment agreement to CARE Manor I L.P. for the CARE Manor affordable housing project located at 4531 -- 4533 and 4549 -- 4555 West Washington Boulevard in the 28<sup>th</sup> Ward (O2024-0010978), in an amount not to exceed \$9,750,000 in Multi-Family Program Funds, \$10,000,000 in TIF funds and \$15,000,000 in tax-exempt bonds, having had the same under advisement, begs leave to report and recommend that Your Honorable Body *Pass* the proposed ordinance transmitted herewith.

This recommendation was concurred in by a voice vote of the members of the committee present, with no dissenting votes on September 16, 2024.

Respectfully submitted,

(Signed) PAT DOWELL,  
*Chair.*

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

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

The following is said ordinance as passed:

WHEREAS, By virtue of Section 6(a) of Article VII of the 1970 Constitution of the State of Illinois, the City of Chicago (the "City") is a home rule unit of local government and as such may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, As a home rule unit and pursuant to the Constitution, the City is authorized and empowered to issue multi-family housing revenue obligations for the purpose of financing the cost of the acquisition, construction, rehabilitation, development, and equipping affordable multi-family housing facilities for low- and moderate-income families located in the City ("Multi-Family Housing Bond Financing"); and

WHEREAS, The City has determined that there exists within the City a serious shortage of decent, safe and sanitary rental housing available for persons of low- and moderate-income and 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, not including the proceeds of the hereinafter defined 2024 GO/STSC Bonds, (the "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 Housing ("DOH"); and

WHEREAS, The City owns two (2) vacant parcels of real property generally located at 4531 -- 4533 West Washington Boulevard in Chicago, Cook County, Illinois, as legally described in Exhibit F hereto and located in the Madison/Austin Area (as defined below) (the "City Property"); and

WHEREAS, United for Better Living, Inc., NFP, an Illinois not-for-profit corporation ("UBL") owns five (5) parcels of real property generally located at 4549 -- 4555 West Washington Boulevard in Chicago, Cook County, Illinois, adjacent to the City Property, as legally described on Exhibit F hereto and located in the Madison/Austin Area (the "Private Property", and together with the City Property, the "Property"); and

WHEREAS, CARE Manor I L.P., an Illinois limited partnership (the "Borrower"), the general partner of which is CARE Manor Inc., an Illinois not-for-profit corporation (the "General Partner"), desires to purchase: (1) the City Property, which has an appraised fair market value of \$35,000, for a price of \$1.00 per tax parcel (the "Purchase Price"); and (2) the Private Property for the Bond Project (as defined below); and

WHEREAS, UBL submitted a proposal to the Department of Planning and Development ("DPD") to purchase and construct the Bond Project on the Property; and

WHEREAS, The City desires to convey the City Property to the Borrower for the Purchase Price for the development of the Bond Project; and

WHEREAS, UBL obtained a Phase I Environmental Site Assessment ("ESA") of the Property dated November 30, 2020, and a follow-up Phase II ESA dated April 27, 2022, which disclosed the presence of contamination exceeding residential remediation objectives as set forth in 35 Ill. Adm. Code Part 74; and

WHEREAS, The Borrower has agreed to complete the remediation necessary to obtain a comprehensive residential "No Further Remediation" letter from the Illinois Environmental Protection Agency approving the use of the Property for the construction, development, and operation of the Bond Project; and

WHEREAS, Pursuant to Resolution No. 23-CDC-41 adopted by the Community Development Commission of the City (the "Commission") on November 14, 2023, the Commission recommended that: (1) the Borrower and UBL, together with their affiliates, be designated as the "Developer" for the Bond Project; and (2) DPD be authorized to: (a) negotiate, execute and deliver on behalf of the City a Redevelopment Agreement (as defined below) with the Borrower, UBL, and their affiliates; and (b) enter into a negotiated sale for the disposition of the City Property to the Borrower and their affiliates if no responsive alternative proposals were received at the conclusion of the advertising period, or, if alternative proposals were received, if DPD determined in its sole discretion that it was in the best interest of the City to proceed with UBL's proposal; and

WHEREAS, Public notices advertising DPD's intent to sell the City Property to the Developer and requesting alternative proposals appeared in the *Chicago Tribune* on November 24, December 1 and December 8, 2023; and

WHEREAS, No other proposals were received by the deadline indicated in the aforesaid notices; and

WHEREAS, By Resolution No. 23-056-21 adopted on December 21, 2023, the Chicago Plan Commission approved the disposition of the City Property; and

WHEREAS, By this ordinance (this "Ordinance"), the City Council has determined that it is necessary and in the best interests of the City to provide Multi-Family Housing Bond Financing and certain other funding, as provided herein, to the Borrower to enable it to pay or reimburse a portion of the costs of acquiring, leasing, constructing and equipping of one newly-constructed 3-story residential rental apartment building on the Property containing up to 44 dwelling units and up to 21 parking spaces for residents, all of which will be rented to households earning up to 60 percent of area median income (together with related common areas, parking lot facilities and on-site laundry facilities, and as further described on Exhibit A hereto, the "Bond Project"), and to pay a portion of the costs of issuance and other costs incurred in connection therewith; and

WHEREAS, By this Ordinance, the City Council has determined that it is necessary and in the best interests of the City to enter into a funding loan agreement (the "Funding Loan Agreement") with: (i) CIBC Bank USA, an Illinois state chartered bank (together with its successors and assigns, the "Funding Lender"), pursuant to which the City will borrow an aggregate principal amount not to exceed the Fifteen Million Dollars (\$15,000,000) for a portion of the purposes set forth above and in evidence of its limited, special obligation to repay that borrowing, the City will issue a tax-exempt revenue note, to be designated as the Multi-Family Housing Revenue Note (CARE Manor), 2024 Series A (the "Governmental Note") under the terms and conditions of this Ordinance and the Funding Loan Agreement, and the City will thereafter loan the proceeds of the Funding Loan to the Borrower (the "Borrower Loan") pursuant to a borrower loan agreement (the "Borrower Loan Agreement") between the City and the Borrower, as evidenced by that certain Borrower promissory note (the "Borrower Note"), made by the Borrower to the order of the City in order to finance a portion of the cost of the Bond Project in return for loan payments sufficient to pay, when due, the principal of, prepayment premium, if any, and interest on the Governmental Note; and

WHEREAS, The principal of, prepayment premium, if any, and interest payable on the Governmental Note will be secured by, among other things, the Borrower Note, a mortgage on the Property and certain other related collateral, by certain capital contributions to be made to the Borrower by its investor member(s) in connection with the allocation to the Borrower of federal low-income housing tax credits and by pledges and/or assignments of certain funds, personal property, and contractual rights of the Borrower and its affiliates; and

WHEREAS, The Funding Loan and the Governmental Note and the obligation to pay interest thereon do not now and shall never constitute an indebtedness of or an obligation of the City, the State of Illinois or any political subdivision thereof, within the purview of any Constitutional limitation or statutory provision, or a charge against the general credit or taxing powers of any of them. No party to the Funding Loan Agreement or holder of any Governmental Note shall have the right to compel the taxing power of the City, the State of Illinois, or any political subdivision thereof to pay any principal installment of, prepayment premium, if any, or interest on the Governmental Note or obligations under the Funding Loan Agreement; and

WHEREAS, In connection with the execution and delivery of the Funding Loan Agreement and the issuance of the Governmental Note, the City Council has determined by this Ordinance that it is necessary and in the best interests of the City to enter into: (i) the Funding Loan Agreement providing, for the security for and terms and conditions of the Funding Loan, and the Governmental Note to be issued thereunder; (ii) the Borrower Loan Agreement providing for the loan of the proceeds of the Funding Loan to the Borrower and the use of such proceeds; (iii) a tax regulatory agreement and/or tax certificate (each, a "Tax Agreement" and collectively, the "Tax Agreements") between the City and the Borrower; and (iv) a Land Use Restriction Agreement between the City and the Borrower (the "Land Use Restriction Agreement"); and

WHEREAS, There has been presented to this meeting of the City Council forms of the following documents in connection with the Governmental Note:

- (a) the form of Funding Loan Agreement, which includes a form of the Governmental Note to be issued by the City (attached as Exhibit B hereto);
- (b) the form of Borrower Loan Agreement (attached as Exhibit C hereto); and
- (c) the form of the Land Use Restriction Agreement (attached as Exhibit D hereto); and

WHEREAS, Pursuant to an ordinance adopted by the City Council of the City (the "City Council") on September 29, 1999, and published at pages 11506 -- 11621 in the *Journal of the Proceedings of the City Council of the City of Chicago* (the "*Journal*") for such date, a certain redevelopment plan and project (the "Madison/Austin Plan") for the Madison/Austin Corridor Redevelopment Project Area (the "Madison/Austin Area") was approved pursuant to the Illinois Tax Increment Allocation Redevelopment Act, as amended (65 ILCS 5/11-74.4-1, et seq.) (the "Act"), each as amended by an ordinance adopted by the City Council on September 8, 2010, published at pages 34555 to 34569 in the *Journal* for such date, and each further amended by an ordinance adopted by the City Council on April 19, 2023, published at pages 62459 to 62462 in the *Journal* for such date (as amended, the "Madison/Austin Plan" and the "Madison/Austin Area"); and

WHEREAS, Pursuant to an ordinance adopted by the City Council on September 29, 1999, and published at pages 11621 -- 11642 in the *Journal* for such date, the Madison/Austin Area was designated as a redevelopment project area pursuant to the Act; and

WHEREAS, Pursuant to an ordinance (the "TIF Ordinance") adopted by the City Council on September 29, 1999, and published at pages 11643 -- 11662 in the *Journal* for such date, tax increment allocation financing was adopted pursuant to the Act as a means of financing certain Madison/Austin Area redevelopment project costs (as defined in the Act) incurred pursuant to the Madison/Austin Plan; and

WHEREAS, The Bond Project is necessary for the redevelopment of the Madison/Austin Area; and

WHEREAS, The Borrower will be obligated to undertake the Bond Project in accordance with the terms and conditions of a proposed redevelopment agreement ("Redevelopment Agreement") to be executed by the Borrower, UBL, and the City, with such Bond Project to be financed in part by certain pledged incremental taxes deposited from time to time in the Madison/Austin Redevelopment Project Area Special Tax Allocation Fund for the Madison/Austin Area (the "TIF Fund") pursuant to the Redevelopment Agreement; and

WHEREAS, Pursuant to an ordinance adopted by the City Council on April 19, 2024, and published at pages 11493 -- 11568, the City Council authorized the issuance of general obligation bonds and/or additional sales tax obligations in one or more series, in an aggregate principal amount not to exceed \$1,250,000,000 (the "2024 GO/STSC Bond") to finance the costs of the Purposes (as defined therein), with such proceeds being issued as tax-exempt ("Tax-Exempt 2024 GO/STSC Bond Proceeds") or taxable ("Taxable 2024 GO/STSC Bond Proceeds"); and

WHEREAS, DOH has preliminarily reviewed and approved the making of loans and/or grants to the Borrower in a total combined amount not to exceed \$9,750,000 ("DOH Assistance") to be funded from: (1) a loan of Multi-Family Program Funds; and/or (2) a loan of Taxable 2024 GO/STSC Bond Proceeds; and/or (3) a grant of Tax-Exempt 2024 GO/STSC Bond Proceeds pursuant to the terms and conditions set forth in Exhibit A hereto; and

WHEREAS, The Borrower now desires to obtain financing from various sources including, but not limited to, the Multi-Family Housing Bond Financing Loan, the TIF Fund, and DOH Assistance, all such financing as described in Exhibit A hereto; now, therefore,

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

SECTION 1. Incorporation Of Recitals. The recitals contained in the preambles to this Ordinance are hereby incorporated into this Ordinance by this reference. All capitalized terms used in this Ordinance, unless otherwise defined herein, shall have the meanings ascribed thereto in the Funding Loan Agreement or the Redevelopment Agreement, as applicable.

SECTION 2. Findings And Determinations. The City Council hereby finds and determines that the delegations of authority that are contained in this Ordinance, including the authority to make the specific determinations described herein, are necessary and desirable. Thus, authority is granted to the Authorized Officer (as defined in Section 3) to establish the terms of the Funding Loan Agreement and Governmental Note, the Borrower Loan Agreement and the Borrower Note on such terms as and to the extent such officer determines that such terms are desirable and in the best financial interest of the City. Any such designation and determination by an Authorized Officer shall be signed in writing by such Authorized Officer and filed with the City Clerk and shall remain in full force and effect for all purposes of this Ordinance unless and until revoked, such revocation to be signed in writing by an Authorized Officer and filed with the City Clerk.

SECTION 3. Authorization Of The Funding Loan Agreement, The Governmental Note, The Borrower Loan Agreement And Related Agreements. Upon the approval and availability of the additional financing as shown in Exhibit A (the "Additional Financing"), the execution and delivery of the Funding Loan Agreement and the issuance of the Governmental Note in an aggregate principal amount of not to exceed \$15,000,000 are hereby authorized. The aggregate principal amount of the Governmental Note to be issued, and their division into one or more series of Governmental Note, shall be as set forth in the Funding Loan Notification referred to in Section 6 below.

The Funding Loan Agreement and the Governmental Note shall contain a provision that they are executed and delivered under authority of this Ordinance. The maximum term of the Funding Loan shall not exceed 40 years from the date of execution and delivery of the Governmental Note. The Governmental Note shall bear interest at a rate or rates equal to the rate of interest on the related Borrower Loan as provided in the Borrower Loan Agreement (which shall not exceed the lesser of 12.0 percent or the maximum rate of interest allowable under state law) and shall be as determined by the Authorized Officer and shall be payable on the payment dates as set forth in the Funding Loan Agreement and the Funding Loan Notification. The Governmental Note shall be dated, shall be subject to prepayment, shall be payable in such places and in such manner and shall have such other details and provisions as prescribed by the Funding Loan Agreement, the form(s) of the Governmental Note therein and the Funding Loan Notification. The provisions for execution, signatures, payment and prepayment, with respect to the Funding Loan Agreement and the Governmental Note shall be as set forth in the Funding Loan Agreement and the form(s) of the Governmental Note therein.

Each of: (i) the Mayor of the City (the "Mayor"); (ii) the Chief Financial Officer of the City (as defined below); or (iii) any other officer designated in writing by the Mayor (the Mayor, the Chief Financial Officer or any such other officer being referred to as an "Authorized Officer") is hereby authorized to execute by their manual or, in the case of the Governmental Note, manual or facsimile signature, and to deliver on behalf of the City, and the City Clerk and the Deputy City Clerk are hereby authorized to attest by their manual or, in the case of the Governmental Note, manual or facsimile signature, the Funding Loan Agreement and the Governmental Note, in substantially the form attached hereto as Exhibit B and made a part hereof and hereby approved, with such changes therein as shall be approved by the Authorized Officer executing the same, with such execution to constitute conclusive evidence of such officer's approval and the City Council's approval of any changes or revisions from the form of the Funding Loan Agreement and Governmental Note therein attached to this Ordinance and reflecting the terms as determined in the Funding Loan Notification.

As used herein, the term "Chief Financial Officer" shall mean the Chief Financial Officer of the City appointed by the Mayor, or, if there is no such officer then holding said office, the City Comptroller.

Each Authorized Officer is hereby authorized to act as an authorized City representative (each an "Authorized City Representative") of the City for the purposes provided in the Funding Loan Agreement.

An Authorized Officer is hereby authorized to execute and deliver on behalf of the City, and the City Clerk and the Deputy City Clerk are hereby authorized to attest, the Borrower Loan Agreement in substantially the form attached hereto as Exhibit C, and made a part hereof and hereby approved, with such changes therein as shall be approved by the Authorized Officer executing the same, with such execution to constitute conclusive evidence of such Authorized Officer's approval and the City Council's approval of any changes or revisions from the form of the Borrower Loan Agreement and the Borrower Note therein attached to this Ordinance and reflecting the terms as determined in the Funding Loan Notification.

An Authorized Officer is hereby authorized to execute and deliver a Land Use Restriction Agreement on behalf of the City, in substantially the form attached hereto as Exhibit D and made a part hereof and hereby approved with such changes therein as shall be approved by the Authorized Officer executing the same, with such execution to constitute conclusive evidence of such Authorized Officer's approval and the City Council's approval of any changes or revisions from the form of the Land Use Restriction Agreement attached to this Ordinance and reflecting the terms as determined in the Funding Loan Notification.

An Authorized Officer is hereby authorized to execute and deliver and the City Clerk and the Deputy City Clerk are hereby authorized to attest the Tax Agreements on behalf of the City, in substantially the forms of such documents used in previous tax-exempt multi-family housing bond financings (with appropriate revisions to reflect the terms and provisions of the Funding Loan Agreement and the Governmental Note and the applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations promulgated thereunder), and with such other revisions in text as the Authorized Officer executing the same shall determine are necessary or desirable in connection with the exclusion from gross income for federal income tax purposes of interest on the Governmental Note. The execution of the Tax Agreements by the Authorized Officer shall be deemed conclusive evidence of the approval of the City Council to the terms provided in the Tax Agreements.

An Authorized Officer is hereby authorized to execute and deliver on behalf of the City such security or collateral documents securing payment of the Governmental Note as the Authorized Officer regards as appropriate, in substantially the form of the security documents used in previous issuances of tax-exempt bonds pursuant to programs similar to the Governmental Note, with appropriate revisions to reflect the terms and provisions of the Governmental Note and with such other revisions as the Authorized Officer executing the same shall determine are appropriate and consistent with the other provisions of this Ordinance. The execution of security or collateral documents by the Authorized Officer shall be deemed conclusive evidence of the approval of the City Council to the terms provided in such documents.

**SECTION 4. Security For The Funding Loan Agreement And The Governmental Note.** The obligations of the City under the Funding Loan Agreement and the Governmental Note shall be limited obligations of the City, payable solely from and/or secured by a pledge of the following security (other than certain Unassigned Rights of the City, as defined in the Funding Loan Agreement or the Borrower Loan Agreement):

(a) all right, title and interest of the City in, to and under the Borrower Loan Agreement and the Borrower Note, including, without limitation, all rents, revenues and receipts derived by the City from the Borrower relating to the Bond Project and including, without limitation, all Pledged Revenues (as defined in the Funding Loan Agreement), Borrower Loan Payments (as defined in the Borrower Loan Agreement), and Additional Borrower Payments (as defined in the Borrower Loan Agreement) derived by the City under and pursuant to, and subject to the provisions of, the Borrower Loan Agreement; provided that the pledge and assignment made under the Funding Loan Agreement shall not impair or diminish the obligations of the City under the provisions of the Borrower Loan Agreement;

(b) all right, title and interest of the City in, to and under, together with all rights, remedies, privileges and options pertaining to, the Funding Loan Agreement, and all other payments, revenues and receipts derived by the City under and pursuant to, and subject to the provisions of, the Funding Loan Agreement;

(c) any and all moneys and investments from time to time on deposit in, or forming a part of, all funds and accounts created and held under the Funding Loan Agreement, subject to the provisions of the Funding Loan Agreement permitting the application thereof for the purposes and on the terms and conditions set forth therein;

(d) any and all other real or personal property of every kind and nature or description, which may from time to time hereafter, by delivery or by writing of any kind, be subjected to the lien of the Funding Loan Agreement as additional security by the City or anyone on its part or with its consent, or which pursuant to any of the provisions of the Borrower Loan Agreement may come into the possession or control of the Funding Lender or a receiver appointed pursuant to the Funding Loan Agreement;

(e) certain capital contributions to be made to the Borrower by its low-income housing tax credit non-managing member in accordance with the terms and conditions of the operating agreement of the Borrower in connection with the allocation to the Borrower of federal low-income housing tax credits and certain other funds, personal property and contractual rights of the Borrower and its affiliates pledged and/or assigned to the Funding Lender; and

(f) a mortgage on and security interest in the Bond Project and related collateral.

In order to secure the payment of the principal of, prepayment premium, if any, and interest on the Governmental Note, such rights, proceeds and investment income are hereby pledged to the extent and for the purposes as provided in the Funding Loan Agreement and are hereby appropriated for the purposes set forth in the Funding Loan Agreement. Nothing contained in this Ordinance shall limit or restrict the subordination of the pledge of such rights, proceeds and investment income as set forth in the Funding Loan Agreement to the payment of any other obligations of the City enjoying a lien or claim on such rights, proceeds and investment income as of the date of execution and delivery of the Funding Loan Agreement and the Governmental Note, all as shall be determined by the Authorized Officer

at the time of the execution and delivery of the Funding Loan Agreement and the Governmental Note. The Funding Loan Agreement shall set forth such covenants with respect to the application of such rights, proceeds and investment income as shall be deemed necessary by the Authorized Officer in connection with the execution and delivery of the Funding Loan Agreement and the Governmental Note.

SECTION 5. Delivery Of The Funding Loan Agreement Sale And Delivery Of Governmental Note. Subject to the terms and conditions of the Funding Loan Agreement and such additional terms as are set forth in the Funding Loan Notification with the approval of an Authorized Officer, the Governmental Note shall be sold and delivered to the Funding Lender, or such other funding lender as approved by an Authorized Officer, including The Community Development Trust L.P., a Delaware limited partnership, and shall hold the Funding Loan Agreement and the Governmental Note, subject to the terms and conditions of the required transferee representations (the "Required Transferee Representations") which shall be delivered to the City by the Funding Lender. Any subsequent Funding Lender approved by an Authorized Officer, to the extent required under the Funding Loan Agreement, may succeed the initial Funding Lender as the registered holder of all or a portion of the Funding Loan, but only if such subsequent Funding Lender executes and delivers to the City the Required Transferee Representations, substantially in the form of the Required Transferee Representations set forth in the Funding Loan Agreement. The aggregate costs of origination of the Funding Loan paid from the proceeds of the Funding Loan to the Funding Lender shall not exceed one and one-half percent (1.5%) of the principal amount of the Governmental Note.

SECTION 6. Funding Loan Notification. Subsequent to the execution and delivery of the Funding Loan Agreement and the sale of any Governmental Note, the Authorized Officer shall file in the Office of the City Clerk a Funding Loan Notification for such Funding Loan Agreement and the Governmental Note directed to the City Council setting forth: (i) the aggregate original principal amount of, maturity schedule, redemption provisions for and nature of each series of the Governmental Note sold; (ii) the extent of any tender rights to be granted to the holders of the Governmental Note; (iii) the identity of the Funding Lender, if different from CIBC Bank USA; (iv) the interest rate on the Governmental Note and/or a description of the method of determining the interest rate applicable to the Governmental Note from time to time; (v) the origination fee or other compensation paid to the Funding Lender in connection with the origination of the Funding Loan and issuance of the Governmental Note; and (vi) any other matter authorized by this Ordinance to be determined by an Authorized Officer at the time of the sale of any Governmental Note. There shall be attached to such notification the final form of the Funding Loan Agreement, a specimen of the Governmental Note and the Borrower Loan Agreement.

SECTION 7. Limited Obligations. The Governmental Note, when issued and outstanding, will be a limited obligation of the City, payable solely as provided in the Funding Loan Agreement. The Governmental Note and the interest thereon shall never constitute a debt or general obligation or a pledge of the faith, the credit or the taxing power of the City within the meaning of any Constitutional or statutory provision of the State of Illinois. The Governmental Note shall be payable solely from the funds pledged therefore pursuant to the terms of the Funding Loan Agreement herein described.

SECTION 8. Use Of Proceeds. The proceeds from the Funding Loan (as evidenced by the sale of the Governmental Note) shall be deposited as provided in the Funding Loan Agreement and used for the Bond Project.

SECTION 9. Volume Cap. The Funding Loan Agreement and the Governmental Note are obligations taken into account under Section 146 of the Code in the allocation of the City's volume cap.

SECTION 10. Developer Designation. The Borrower and UBL, together with their affiliates, are hereby designated as the developer for the Bond Project pursuant to Section 5/11-74.4-4 of the Act.

SECTION 11. Redevelopment Agreement. Upon the approval and availability of the Additional Financing, the City's Commissioner of Planning and Development or a designee thereof (the "Authorized DPD Officer") is hereby authorized, with the approval of the City's Corporation Counsel, 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 such agreements, with such changes, deletions and insertions as shall be approved by the persons executing such agreements. Such documents may contain terms and provisions that the Authorized Officer deems appropriate, including indemnification, releases, affidavits and other documents as may be reasonably necessary to remove exceptions from title or otherwise may be reasonably necessary or appropriate to consummate the transaction contemplated hereby. The Redevelopment Agreement shall be in substantially the form attached hereto as Exhibit E and made a part hereof and hereby approved with such changes therein as shall be approved by the Authorized DPD Officer executing the same, with such execution to constitute conclusive evidence of such officer's approval of any changes or revisions from the form of Redevelopment Agreement attached to this Ordinance.

SECTION 12. Payment Of Incremental Taxes. The City Council hereby finds that the City is authorized to pay a total amount not to exceed \$10,000,000 from Incremental Taxes deposited in the general account of the Madison/Austin Area's TIF Fund. The TIF Funds are hereby appropriated for the Bond Project.

SECTION 13. Maintenance And Use Of TIF Fund. Pursuant to the TIF Ordinance, the City has created the TIF Fund. The Chief Financial Officer of the City (or his or her designee) is hereby directed to maintain the TIF Fund as a segregated interest-bearing account, separate and apart from the City's Corporate Fund or any other fund of the City. Pursuant to the TIF Ordinance, all Incremental Taxes received by the City for the Madison/Austin Area shall be deposited into the TIF Fund. The City shall use the funds in the TIF Fund to make payments pursuant to the terms of the Redevelopment Agreement.

SECTION 14. Sale Of City Property. The sale of the City Property to the Borrower for the Purchase Price is hereby approved. This approval is expressly conditioned upon the City entering into the Redevelopment Agreement with the Borrower. The Borrower shall pay all escrow fees and other title insurance fees and closing costs associated with the conveyance of the City Property.

SECTION 15. Quitclaim Deed. The Mayor or the Mayor's proxy is each hereby authorized to execute, and the City Clerk or the Deputy City Clerk is each hereby authorized to attest, one or more quitclaim deeds (each, a "Deed") conveying the City Property to the Borrower, or to a land trust of which the Borrower is the sole beneficiary, or to an entity of which the Borrower is the sole controlling party, or to an entity which is comprised of the same principal parties. Without limiting the quitclaim nature of the Deed, the conveyance shall be subject to: (a) the standard exceptions in an ALTA title insurance policy; (b) general real estate taxes and any special assessments or other taxes; (c) all easements, encroachments, covenants and restrictions of record and not shown of record; (d) such other title defects that may exist; and (e) any and all exceptions caused by the acts of the Borrower or its agents.

SECTION 16. DOH Assistance. Upon the approval and availability of the Additional Financing as shown in Exhibit A hereto, the City's Commissioner of Housing or a designee thereof (the "Authorized DOH Officer") is 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 DOH Assistance, including the making of loans and/or grants to the Borrower in a total combined amount not to exceed \$9,750,000 for the Bond Project to be funded from: (1) a loan of Multi-Family Program Funds; and/or (2) a loan of Taxable 2024 GO/STSC Bond Proceeds; and/or (3) a grant of Tax-Exempt 2024 GO/STSC Bond Proceeds. The Authorized DOH Officer is hereby authorized, subject to the approval of the Corporation Counsel, to negotiate any and all terms and provisions in connection with the DOH Assistance which do not substantially modify the terms described in Exhibit A hereto. Upon the execution and receipt of proper documentation, the Authorized DOH Officer is hereby authorized to disburse the proceeds of the DOH Assistance to the Borrower.

SECTION 17. Proxies. Each Authorized Officer may designate another to act as their respective proxy and to affix their respective signatures to the Governmental Note, whether in temporary or definitive form, and to any other instrument, certificate or document required to be signed by such Authorized Officer pursuant to this Ordinance or the Funding Loan Agreement. In each case, each Authorized Officer shall send to the City Council written notice of the person so designated by each, such notice stating the name of the person so selected and identifying the instruments, certificates and documents which such person shall be authorized to sign as proxy for the Mayor and the Authorized Officer, respectively. A written signature of the Mayor or the Authorized Officer, respectively, executed by the person so designated underneath, shall be attached to each notice. Each notice, with signatures attached, shall be recorded in the *Journal* and filed with the City Clerk. When the signature of the Mayor is placed on an instrument, certificate or document at the direction of the Mayor in the specified manner, the same, in all respects, shall be as binding on the City as if signed by the Mayor in person. When the signature of the Authorized Officer is so affixed to an instrument, certificate or document at the direction of the Authorized Officer in the specified manner, the same, in all respects, shall be as binding on the City as if signed by the Authorized Officer in person.

SECTION 18. Additional Authorization. Each Authorized Officer, the City Treasurer, and, upon the approval and availability of the Additional Financing as shown in Exhibit A, the Authorized DOH Officer is hereby authorized to execute and deliver and the City Clerk and the Deputy City Clerk are each hereby authorized to enter into, execute and deliver such other documents and agreements, including, without limitation, any documents necessary

to evidence the receipt or assignment of any collateral for the Funding Loan Agreement and the Governmental Note, the Borrower Loan Agreement or the Borrower Note from the Borrower, and perform such other acts as may be necessary or desirable in connection with the City Agreements (as defined in Section 23 hereof), including, but not limited to, the exercise following the delivery date of the City Agreements of any power or authority delegated to such official under this Ordinance with respect to the City Agreements upon original execution and delivery, but subject to any limitations on or restrictions of such power or authority as herein set forth. Notwithstanding anything contained herein (including but not limited to Sections 3 and 11 hereof), if any portion of the Additional Financing is not approved and available at such time as the Authorized Officer, the Authorized DPD Officer, and the Authorized DOH Officer otherwise deem it in the best interest of the City to execute the City Agreements, then the Authorized Officer, the Authorized DPD Officer, and the Authorized DOH Officer may so execute the applicable City Agreements (with such changes thereto as the officer executing such documents deem necessary and advisable) and any necessary ancillary documents and may impose such conditions upon the approval and availability of such Additional Financing as they deem necessary and advisable.

**SECTION 19. Public Hearing.** This City Council hereby directs that the Governmental Note shall not be issued unless and until the requirements of Section 147(f) of the Code, including particularly the approval requirement following any required public hearing, have been fully satisfied, and that no contract, agreement or commitment to issue the Governmental Note shall be executed or undertaken prior to satisfaction of the requirements of said Section 147(f) unless the performance of said contract, agreement or commitment is expressly conditioned upon the prior satisfaction of such requirements. All such actions taken prior to the enactment of this Ordinance are hereby ratified and confirmed.

**SECTION 20. Severability.** If any provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Ordinance.

**SECTION 21. Administrative Fee.** DOH is hereby authorized to charge an administrative fee or fees in connection with the delivery and administration of the Funding Loan Agreement and the Governmental Note, which shall be collected under such terms and conditions as determined by the Authorized DOH Officer and which shall be in an amount as determined by the Authorized DOH Officer but not to exceed the maximum amount permitted under Section 148 of the Code to avoid characterization of the Funding Loan Agreement and the Governmental Note as "arbitrage bonds" as defined in such Section 148. Such administrative fee or fees shall be used by DOH for administrative expenses and other housing activities. Initially, such administrative fee or fees shall be an amount equal to: (i) 1.5 percent of the original principal amount of the Governmental Note payable upon issuance of the Governmental Note; plus (ii) an on-going compliance fee of \$25 per unit payable annually.

**SECTION 22. Reserve For Legal Expenses.** The City is authorized to assess a legal reserve fee with respect to the Bond Project, payable upon issuance of the Governmental Note from the proceeds of the Governmental Note or from funds contributed by the Borrower, which shall be in an amount equal to 0.10 percent of the original principal amount of the Governmental Note. Such fee shall be used by the City to pay legal costs or other expenses in connection with the Bond Project, the Governmental Note, or other City issuances.

SECTION 23. No Recourse. No recourse shall be had for the payment of the principal of, prepayment premium, if any, or interest on any of the Governmental Note or for any claim based thereon or upon any obligation, covenant or agreement contained in this Ordinance, the Funding Loan Agreement, the Governmental Note, the Borrower Loan Agreement, the Land Use Restriction Agreement, the Tax Agreement, or the Redevelopment Agreement (collectively, the "City Agreements") against any past, present or future officer, member or employee of the City, or any officer, employee, director or trustee of any successor, as such, either directly or through the City, or any such successor, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such member, officer, employee, director or trustee as such is hereby expressly waived and released as a condition of and consideration for the execution of the City Agreements and the issuance of the Governmental Note.

SECTION 24. No Impairment. To the extent that any ordinance, resolution, rule, order or provision of the Municipal Code, or part thereof, is in conflict with the provisions of this Ordinance, the provisions of this Ordinance shall be controlling. No provision of the Municipal Code or violation of any provision of the Municipal Code shall be deemed to render voidable at the option of the City any document, instrument or agreement authorized hereunder or to impair the validity of this Ordinance or the instruments authorized by this Ordinance or to impair the rights of the holders of the Funding Loan and the Governmental Note to receive payment of the principal of, prepayment premium, if any, or interest on the Governmental Note or to impair the security for the Funding Loan Agreement and the Governmental Note; provided further that the foregoing shall not be deemed to affect the availability of any other remedy or penalty for any violation of any provision of the Municipal Code. Sections 2-44-080 through 2-44-105, inclusive, of the Municipal Code shall not apply to the Bond Project or the Property.

SECTION 25. Effective Date. This Ordinance shall be in full force and effect immediately upon its passage and approval.

Exhibits "A", "B", "C", "D", "E" and "F" referred to in this ordinance read as follows:

*Exhibit "A".*  
(To Ordinance)

Borrower: CARE Manor I L.P., an Illinois limited partnership, the general partner of which is CARE Manor Inc. an Illinois not-for-profit corporation.

**Bond Project:** Acquisition, leasing, constructing, developing, and equipping of one newly-constructed, 3-story walk-up, residential rental apartment building on the Property containing up to 44 dwelling units and up to 21 parking spaces for the residents, all of which will be rented to households earning up to 60 percent of area median income (together with related common areas, parking lot facilities and on-site laundry facilities, the "Bond Project").

**Bond Financing:**

1. The Governmental Note, As Described In This Ordinance. The Governmental Note will be secured by, among other things, the collateral assignment by the City of its rights under (except for certain unassigned rights) and interest in the Borrower Loan Agreement, the Borrower Note and a construction mortgage from the Borrower in favor of the City encumbering the Bond Project as security for the Borrower Loan (the "Note Mortgage"), as well as certain capital contributions to be made to the Borrower by its investor member, and cash collateral, if necessary, pursuant to the terms of the Funding Loan Agreement. The Note Mortgage will grant the holder of the Governmental Note secured thereby a mortgage on the Property that is senior in position subject to the terms of the operating agreement of the Borrower.

**Additional Financing:**

2. Construction Loan:

**Amount:** Approximately \$15,000,000 or such other amount acceptable to the Authorized DOH Officer.

**Source:** CIBC Bank USA or another entity acceptable to the Authorized DOH Officer.

**Term:** Not to exceed 24 months, with an optional six-month extension.

**Interest:** Long Term Applicable Federal Rate as of closing, or such other interest rate acceptable to the Authorized DOH Officer.

**Security:** Mortgage on the Property junior to the Note Mortgage, and/or such other security acceptable to the Authorized DOH Officer.

**Refinance to Permanent:**

The Construction Loan is expected to be repaid by the Borrower upon construction completion partly with the TIF Proceeds and LIHTC Equity, with approximately \$2,416,000 converting to a permanent first mortgage (the "Permanent Loan"). The Permanent Loan is expected to have a loan term of approximately 20 years, an

amortization schedule of approximately 40 years, and a fixed interest rate of approximately 8 percent or such other terms as may be acceptable to the Authorized DOH Officer.

3. TIF Proceeds:

Amount: Not to exceed \$10,000,000.

Source: The City's TIF Funds from available incremental taxes from the Madison/Austin Area, which may be used to repay a portion of the lender financing.

4. Low-Income Housing Tax Credit ("LIHTC") Proceeds:

Amount: Approximately \$9,686,612, or such amount as may be acceptable to the Authorized DOH Officer, all or a portion of which may be paid in on a delayed basis, and all or a portion of which will be applied to the payment of a portion of the Governmental Note upon the completion of construction of the Bond Project.

Source: To be derived from the syndication of the LIHTCs generated by the issuance of the Governmental Note.

5. DOH Assistance:

Amount: Multi-Family Program Funds and/or Taxable 2024 GO/STSC Bond Proceeds and/or Tax-Exempt 2024 GO/STSC Bond Proceeds in a total combined amount not to exceed \$9,750,000.

(a) Multi-Family Program Funds Loan:

Term: Approximately 40 years plus construction period, or another term acceptable to the Authorized DOH Officer.

Source: Multi-Family Program Funds.

Interest: 0 percent of such interest rate as may be acceptable to the Authorized DOH Officer.

Security: Mortgage on the Property, junior to the Note Mortgage, and/or such other security acceptable to the Authorized DOH Officer.

and/or

(b) Taxable 2024 GO/STSC Bond Proceeds Loan:

- Term: Approximately 40 years plus construction period, or another term acceptable to the Authorized DOH Officer.
- Source: Taxable 2024 GO/STSC Bond Proceeds.
- Interest: 0 percent or such other interest rate as may be acceptable to the Authorized DOH Officer.
- Security: Mortgage on the Property, junior to the Note Mortgage, and/or such other security acceptable to the Authorized DOH Officer.

and/or

(c) Tax-Exempt 2024 GO/STSC Bond Proceeds Grant:

- Term: Approximately 40 years plus construction period, or another term acceptable to the Authorized DOH Officer.
- Source: Tax-Exempt 2024 GO/STSC Bond Proceeds.
- Security: Recapture mortgage on the Property securing repayment obligations in case of default, junior to the Note Mortgage, and/or such other security acceptable to the Authorized DOH Officer.

6. Deferred Developer Fee:

- Amount: Approximately \$225,000.
- Source: Deferred Developer Fee.

7. Energy Grant Loan from the Foundation:

- Amount: \$100 or such other amount acceptable to the Authorized DOH Officer.
- Source: General Partner.

*Exhibit "B".*  
(To Ordinance)

*Funding Loan Agreement.*

This Funding Loan Agreement, dated as of \_\_\_\_\_ 1, 2024 (this "**Funding Loan Agreement**"), is entered into by **CIBC BANK USA**, as Funding Lender (the "**Funding Lender**") and **CITY OF CHICAGO**, a municipality and home rule unit of local government duly organized and validly existing under the constitution and laws of the State of Illinois (together with its successors and assigns, the "**Governmental Lender**") and is acknowledged by **THE COMMUNITY DEVELOPMENT TRUST, LP** (the "**Note Purchaser**,"") in its capacity as prospective purchaser of the Governmental Lender Note (as hereinafter defined) upon the satisfaction of the terms and conditions set forth in the Forward Bond Purchase Agreement (as hereinafter defined) and Section 2.4 of this Funding Loan Agreement.

**RECITALS**

**WHEREAS**, the Governmental Lender has been duly created and organized pursuant to and in accordance with the provisions of Article VII, Section 6(a) of the 1970 Constitution of the State Illinois, is a home rule unit of local government and as such may provide a means of financing the costs of residential ownership and development that will provide decent, safe and sanitary housing for persons of low and moderate income at prices or rentals they can afford; and

**WHEREAS**, the Governmental Lender is authorized: (a) to make loans to any person to provide financing for rental residential developments located within the jurisdiction of the Governmental Lender and intended to be occupied in part by persons of low and moderate income, as determined by the Governmental Lender; (b) to incur indebtedness for the purpose of obtaining moneys to make such loans and provide such financing, to establish any required reserve funds and to pay administrative costs and other costs incurred in connection with the incurrence of such indebtedness of the Governmental Lender; and (c) to pledge all or any part of the revenues, receipts or resources of the Governmental Lender, including the revenues and receipts to be received by the Governmental Lender from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans or other property of the Governmental Lender in order to secure the payment of the principal of, prepayment premium, if any, on and interest on such indebtedness of the Governmental Lender; and

**WHEREAS**, CARE Manor I L.P., an Illinois limited partnership (the "**Borrower**"), has requested the Governmental Lender to enter into this Funding Loan Agreement under which the Funding Lender (i) will advance funds (the "**Funding Loan**") to or for the account of the Governmental Lender, and (ii) apply the proceeds of the Funding Loan to make a loan (the "**Borrower Loan**") to the Borrower to finance the acquisition, construction, development, and equipping of one newly-constructed multifamily, residential rental building located in the City of Chicago, Cook County, Illinois, known or to be known as CARE Manor, located at 4531-4555 West Washington Boulevard, consisting of a 3-story building with 44 units including 1 one-bedroom, 29 two-bedroom units, 14 three-bedroom units, all of which will be rented to households earning up to 60% of area median income, 21 parking spaces for residents, and related amenities including on-site laundry facilities (the "**Project**"); and

**WHEREAS**, simultaneously with the delivery of this Funding Loan Agreement, the Governmental Lender and the Borrower will enter into a Borrower Loan Agreement of even date herewith (as it may be supplemented or amended, the "**Borrower Loan Agreement**"), whereby the Borrower agrees to make loan payments to the Governmental Lender in an amount which, when added to other funds available under this Funding Loan Agreement, will be sufficient to enable the Governmental Lender to repay the Funding Loan and to pay all costs and expenses related thereto when due; and

**WHEREAS**, to evidence its payment obligations under the Borrower Loan Agreement, the Borrower will execute and deliver to the Governmental Lender its Borrower Note as defined in the Borrower Loan Agreement (the “Borrower Note”) and the obligations of the Borrower under the Borrower Note will be secured by a lien on and security interest in the Project pursuant to one or more Mortgage, Security Agreement, Fixture Filing and Assignment of Leases and Rents of even date herewith (the “Security Instrument”), made by the Borrower in favor of the Governmental Lender, as such document may be modified, supplemented or amended, as assigned to the Funding Lender to secure the performance by the Governmental Lender of its obligations under the Funding Loan; and

**WHEREAS**, the Governmental Lender has executed and delivered to the Funding Lender its not to exceed \$15,000,000 City of Chicago Multifamily Mortgage Revenue Note, 2024 Series A (CARE Manor) (the “Governmental Lender Note”), dated as of the Closing Date (defined below) evidencing its obligation to make the payments due to the Funding Lender under the Funding Loan as provided in this Funding Loan Agreement, all things necessary to make the Funding Loan Agreement the valid, binding and legal limited obligation of the Governmental Lender, have been done and performed and the execution and delivery of this Funding Loan Agreement and the execution and delivery of the Governmental Lender Note, subject to the terms hereof, have in all respects been duly authorized;

**WHEREAS**, the Borrower, Funding Lender and the Note Purchaser have contemporaneously herewith entered into the Forward Bond Purchase Agreement pursuant to which the Note Purchaser has agreed to acquire the outstanding principal amount of the Governmental Note under certain circumstances following Completion of the Project and subject to the requirements set forth therein;

**NOW, THEREFORE**, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the parties hereto do hereby agree as follows:

#### **ARTICLE I DEFINITIONS; PRINCIPLES OF CONSTRUCTION**

**Section 1.1. Definitions.** For all purposes of this Funding Loan Agreement, except as otherwise expressly provided or unless the context otherwise clearly requires:

Unless specifically defined herein, all capitalized terms shall have the meanings ascribed thereto in the Borrower Loan Agreement.

The terms “herein”, “hereof” and “hereunder” and other words of similar import refer to this Funding Loan Agreement as a whole and not to any particular Article, Section or other subdivision. The terms “agree” and “agreements” contained herein are intended to include and mean “covenant” and “covenants.”

All references made (i) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, and (ii) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well. Singular terms shall include the plural as well as the singular, and vice versa.

All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with the Approved Accounting Method. All references herein to “Approved Accounting Method” refer to such principles as they exist at the date of application thereof.

All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to the designated Articles, Sections and subdivisions of this instrument as originally executed.

All references in this instrument to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

References to the Governmental Lender Note as “tax-exempt” or to the “tax-exempt status” of the Governmental Lender Note are to the exclusion of interest payable on the Governmental Lender Note (other than any portion of the Governmental Lender Note held by a “substantial user” of the Project or a “related person” (within the meaning of Section 147 of the Code) thereto) from gross income for federal income tax purposes pursuant to Section 103(a) of the Code.

The following terms have the meanings set forth below:

“**Additional Borrower Payments**” shall have the meaning given such term in the Borrower Loan Agreement.

“**Affiliate**” shall mean, as to any Person, any other Person that, directly or indirectly, is in Control of, is Controlled by or is under common Control with such Person.

“**Approved Transferee**” means (1) the Note Purchaser, (2) a “qualified institutional buyer” (“QIB”) as defined in Rule 144A promulgated under the Securities Act of 1933, as in effect on the date hereof (the “Securities Act”) that is a financial institution or commercial bank having capital and surplus of \$5,000,000,000 or more, (3) an affiliate of the Funding Lender, or (4) a trust or custodial arrangement established by the Funding Lender or one of its affiliates the beneficial interests in which will be owned only by QIBs.”

“**Authorized Amount**” shall mean an amount not to exceed \$15,000,000, the maximum aggregate principal amount of the Funding Loan under this Funding Loan Agreement.

“**Authorized City Representative**” shall have the meaning as set forth for the term “Authorized Officer” in the Ordinance.

“**Borrower**” shall mean CARE Manor 1 L.P., an Illinois limited partnership.

“**Borrower Controlling Entity**” shall mean, if the Borrower is a partnership, any general partner or managing partner of the Borrower, or if the Borrower is a limited liability company, the manager or managing member of the Borrower.

“**Borrower Loan**” shall mean the mortgage loan made by the Governmental Lender to the Borrower pursuant to the Borrower Loan Agreement in the aggregate principal amount of the Borrower Loan Amount, as evidenced by the Borrower Note.

“**Borrower Loan Agreement**” shall mean the Borrower Loan Agreement, of even date herewith, between the Governmental Lender and the Borrower, as supplemented, amended or replaced from time to time in accordance with its terms.

“**Borrower Loan Agreement Default**” shall mean any event of default set forth in Section 8.1 of the Borrower Loan Agreement. A Borrower Loan Agreement Default shall “exist” if a Borrower Loan Agreement Default shall have occurred and be continuing beyond any applicable notice and cure period.

“**Borrower Loan Amount**” shall mean an amount not to exceed \$15,000,000.

“**Borrower Loan Documents**” shall have the meaning given such term in the Borrower Loan Agreement.

**"Borrower Note"** shall mean the "Borrower Note" as defined in the Borrower Loan Agreement.

**"Business Day"** shall mean any day other than (i) a Saturday or a Sunday, or (ii) a day on which federally insured depository institutions in New York, New York, Chicago, Illinois or the cities in which the offices of the Funding Lender are located are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

**"Closing Date"** shall mean \_\_\_\_\_, 2024, the date that initial Funding Loan proceeds are disbursed hereunder.

**"Code"** shall mean the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

**"Construction Escrow Agreement"** shall mean that certain Escrow Agreement, dated \_\_\_\_\_, 2024, among the Title Company named therein, in its capacity as escrow agent, Governmental Lender, the Funding Lender, certain subordinate lenders named therein, and Borrower, as such agreement may be amended, modified, supplemented and replaced from time to time.

**"Construction Funding Agreement"** shall mean that certain Construction Funding Agreement of even date herewith, between the Funding Lender, as agent for the Governmental Lender, and Borrower, pursuant to which the Borrower Loan will be advanced by the Funding Lender (or the Servicer on its behalf), as agent of the Governmental Lender, (and as a corresponding advance of the Funding Loan), to the Borrower and setting forth certain provisions relating to disbursement of the Borrower Loan during construction, insurance and other matters, as such agreement may be amended, modified, supplemented and replaced from time to time.

**"Contingency Draw-Down Agreement"** shall mean the Contingency Draw-Down Agreement of even date herewith between the Funding Lender and the Borrower relating to possible conversion of the Funding Loan from a draw-down loan to a fully funded loan.

**"Control"** shall mean, with respect to any Person, either (i) ownership directly or through other entities of more than 50% of all beneficial equity interest in such Person, or (ii) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, through the ownership of voting securities, by contract or otherwise.

**"Draw-Down Notice"** shall mean a notice described in Section [ ] of the Contingency Draw-Down Agreement regarding the conversion of the Funding Loan from a draw down loan to a fully funded loan.

**"Event of Default"** shall have the meaning ascribed thereto in Section 9.1 hereof.

**"Fitch"** shall mean Fitch, Inc.

**"Forward Bond Purchase Agreement"** shall mean the Forward Loan Purchase Agreement by and among the Funding Lender, the Note Purchaser and Borrower pursuant to which the Note Purchaser shall acquire the outstanding principal amount of the Governmental Note under certain circumstances following Completion of the Project and subject to the requirements set forth therein.

**"Funding Lender"** shall mean CIBC Bank USA, an Illinois banking corporation.

**“Funding Loan Agreement”** shall mean this Funding Loan Agreement, by and between the Funding Lender and the Governmental Lender, as it may from time to time be supplemented, modified or amended by one or more indentures or other instruments supplemental thereto entered into pursuant to the applicable provisions thereof.

**“Funding Loan Documents”** shall mean (i) this Funding Loan Agreement, (ii) the Borrower Loan Agreement, (iii) the Regulatory Agreement, (iv) the Tax Compliance Agreement, (v) the Borrower Loan Documents, (vi) all other documents evidencing, securing, governing or otherwise pertaining to the Funding Loan, and (vii) all amendments, modifications, renewals and substitutions of any of the foregoing.

**“Government Obligations”** shall mean noncallable, nonprepayable (i) direct, general obligations of the United States of America, or (ii) any obligations unconditionally guaranteed as to the full and timely payment of all amounts due thereunder by the full faith and credit of the United States of America (including obligations held in book entry form), but specifically excluding any mutual funds or unit investment trusts invested in such obligations.

**“Governmental Lender”** shall mean the City of Chicago, a municipality and home rule unit of local government duly organized and validly existing under the constitution and laws of the State of Illinois, together with its successors and assigns.

**“Governmental Lender Note”** shall mean the Governmental Lender Note described in the recitals of this Funding Loan Agreement.

**“Highest Rating Category”** shall mean, with respect to a Permitted Investment, that the Permitted Investment is rated by each Rating Agency in the highest rating category given by that Rating Agency for that general category of security. If at any time the Governmental Lender Note is not rated (and, consequently, there is no Rating Agency), then the term “Highest Rating Category” means, with respect to a Permitted Investment, that the Permitted Investment is rated by S&P or Moody’s in the highest rating given by that rating agency for that general category of security. By way of example, the Highest Rating Category for tax-exempt municipal debt established by S&P is “A 1+” for debt with a term of one year or less and “AAA” for a term greater than one year, with corresponding ratings by Moody’s of “MIG 1” (for fixed rate) or “VMIG 1” (for variable rate) for three months or less and “Aaa” for greater than three months. If at any time (i) the Governmental Lender Note is not rated, (ii) both S&P and Moody’s rate a Permitted Investment and (iii) one of those ratings is below the Highest Rating Category, then such Permitted Investment will, nevertheless, be deemed to be rated in the Highest Rating Category if the lower rating is no more than one rating category below the highest rating category of that rating agency. For example, a Permitted Investment rated “AAA” by S&P and “Aa3” by Moody’s is rated in the Highest Rating Category. If, however, the lower rating is more than one full rating category below the Highest Rating Category of that rating agency, then the Permitted Investment will be deemed to be rated below the Highest Rating Category. For example, a Permitted Investment rated “AAA” by S&P and “A1” by Moody’s is not rated in the Highest Rating Category.

**“Material Funding Lender Event”** shall mean the occurrence and continuation of one or more of the following:

- (a) (i) a petition has been filed and is pending against the Funding Lender under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, and has not been dismissed within 90 days after such filing; (ii) the Funding Lender has filed a petition, which is pending, under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution

or liquidation law of any jurisdiction, whether now or hereafter in effect, or has consented in writing to the filing of any petition against it under such law; or (iii) the Funding Lender shall have a receiver, liquidator or trustee appointed for it or for the whole or substantially all of its property and any such appointment has not been dismissed or vacated within 90 days after being made. The occurrence of a Material Funding Lender Event under this subsection (a) and the exercise of remedies upon any such declaration shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding such declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings;

(b) Prior to the advancement by the Funding Lender of the entire amount of the Funding Loan (i) the Funding Loan Agreement or the Construction Funding Agreement for any reason ceases to be valid and binding on the Funding Lender or is declared to be null and void, in each case by a final non-appealable judgment; (ii) the Funding Lender has rescinded, repudiated or terminated the Funding Loan Agreement or the Construction Funding Agreement in writing; or (iii) the Funding Lender is dissolved or confiscated by action of government due to war or peace time emergency or the United States government declares a moratorium on the Funding Lender's activities;

**"Maturity Date"** shall mean, with respect to the Governmental Lender Note, January 1, 2043.

**"Maximum Rate"** shall mean the lesser of (i) 12% per annum and (ii) the maximum interest rate that may be paid on the Funding Loan under State law.

**"Minimum Beneficial Ownership Amount"** shall mean an amount no less than fifteen percent (15%) of the outstanding principal amount of the Funding Loan.

**"Moody's"** shall mean Moody's Investors Service, Inc., or its successor.

**"Negative Arbitrage Deposit"** has the meaning set forth in the Contingency Draw-Down Agreement.

**"Noteowner"** or **"Owner of the Governmental Lender Note"** means the owner, or as applicable, collectively, the owners, of the Governmental Lender Note as shown on the registration books maintained by the Funding Lender pursuant to Section 2.4(d).

**"Note Purchaser"** shall mean The Community Development Trust, LP.

**"Ongoing Governmental Lender Fee"** shall mean (i) the bond issuer closing fee of \$ \_\_\_\_\_ due at closing, a \$ \_\_\_\_\_ LIHTC issuer fee due at closing, \$ \_\_\_\_\_ due at closing for bond legal reserve fee, and (ii) the semi-annual fee of the Governmental Lender in the amount of 15 (.0015) basis points of the total outstanding bond amount, accruing monthly but paid semiannually. The fee due on a semi-annual basis and is payable by the Borrower to the Governmental Lender on each June and January 1, commencing on the Closing Date so long as any parties of the Funding Loan is outstanding.

**"Opinion of Counsel"** shall mean a written opinion from an attorney or firm of attorneys, acceptable to the Funding Lender and the Governmental Lender with experience in the matters to be covered in the opinion; provided that whenever an Opinion of Counsel is required to address the exclusion of interest on the Governmental Lender Note from gross income for purposes of federal income taxation, such opinion shall be provided by Tax Counsel.

“Ordinance” shall mean the Ordinance adopted by the Governmental Lender on \_\_\_\_\_, 2024, authorizing the Funding Loan and the execution and delivery of the Funding Loan Documents to which Governmental Lender is a party.

“Permitted Investments” shall mean, to the extent authorized by law for investment of any moneys held under this Funding Loan Agreement:

(a) Government Obligations.

(b) Direct obligations of, and obligations on which the full and timely payment of principal and interest is unconditionally guaranteed by, any agency or instrumentality of the United States of America (other than the Federal Home Loan Mortgage Corporation) or direct obligations of the World Bank, which obligations are rated in the Highest Rating Category.

(c) Obligations, in each case rated in the Highest Rating Category, of (i) any state or territory of the United States of America, (ii) any agency, instrumentality, authority or political subdivision of a state or territory or (iii) any public benefit or municipal corporation the principal of and interest on which are guaranteed by such state or political subdivision.

(d) Any written repurchase agreement entered into with a Qualified Financial Institution whose unsecured short term obligations are rated in the Highest Rating Category.

(e) Commercial paper rated in the Highest Rating Category.

(f) Interest bearing negotiable certificates of deposit, interest bearing time deposits, interest bearing savings accounts and bankers’ acceptances, issued by a Qualified Financial Institution if either (i) the Qualified Financial Institution’s unsecured short term obligations are rated in the Highest Rating Category or (ii) such deposits, accounts or acceptances are fully collateralized by investments described in clauses (a) or (b) of this definition or fully insured by the Federal Deposit Insurance Corporation.

(g) An agreement held by the Funding Lender for the investment of moneys at a guaranteed rate with a Qualified Financial Institution whose unsecured long term obligations are rated in the Highest Rating Category or the Second Highest Rating Category, or whose obligations are unconditionally guaranteed or insured by a Qualified Financial Institution whose unsecured long term obligations are rated in the Highest Rating Category or Second Highest Rating Category; provided that such agreement is in a form acceptable to the Funding Lender; and provided further that such agreement includes the following restrictions:

(1) the invested funds will be available for withdrawal without penalty or premium, at any time that (A) the Funding Lender is required to pay moneys from the Fund(s) established under this Funding Loan Agreement to which the agreement is applicable, or (B) any Rating Agency indicates that it will lower or actually lowers, suspends or withdraws the rating on the Funding Loan on account of the rating of the Qualified Financial Institution providing, guaranteeing or insuring, as applicable, the agreement;

(2) the agreement, and if applicable the guarantee or insurance, is an unconditional and general obligation of the provider and, if applicable, the guarantor or insurer of the agreement, and ranks pari passu with all other unsecured unsubordinated obligations of the provider, and if applicable, the guarantor or insurer of the agreement;

(3) the Funding Lender receives an Opinion of Counsel, which may be subject to customary qualifications, that such agreement is legal, valid, binding and enforceable upon the provider in accordance with its terms and, if applicable, an Opinion of Counsel that any guaranty or insurance policy provided by a guarantor or insurer is legal, valid, binding and enforceable upon the guarantor or insurer in accordance with its terms; and

(4) the agreement provides that if during its term the rating of the Qualified Financial Institution providing, guaranteeing or insuring, as applicable, the agreement, is withdrawn, suspended by any Rating Agency or falls below the Second Highest Rating Category, the provider must, within ten days, either: (A) collateralize the agreement (if the agreement is not already collateralized) with Permitted Investments described in paragraph (a) or (b) by depositing collateral with the Funding Lender or a third party custodian, such collateralization to be effected in a manner and in an amount reasonably satisfactory to the Funding Lender, or, if the agreement is already collateralized, increase the collateral with Permitted Investments described in paragraph (a) or (b) by depositing collateral with the Funding Lender or a third party custodian, in an amount reasonably satisfactory to the Funding Lender, (B) at the request of the Funding Lender, repay the principal of and accrued but unpaid interest on the investment, in either case with no penalty or premium unless required by law or (C) transfer the agreement, guarantee or insurance, as applicable, to a replacement provider, guarantor or insurer, as applicable, then meeting the requirements of a Qualified Financial Institution and whose unsecured long term obligations are then rated in the Highest Rating Category or the Second Highest Rating Category. The agreement may provide that the downgraded provider may elect which of the remedies to the down grade (other than the remedy set out in (B)) to perform.

Notwithstanding anything else in this Paragraph (g) to the contrary and with respect only to any agreement described in this Paragraph (g) or any guarantee or insurance for any such agreement which is to be in effect for any period after the Conversion Date (as defined in the Borrower Loan Agreement), any reference in this Paragraph to the "Second Highest Rating Category" will be deemed deleted so that the only acceptable rating category for such an agreement, guarantee or insurance will be the Highest Rating Category.

(h) Subject to the ratings requirements set forth in this definition, shares in any money market mutual fund (including those of the Funding Lender or any of its affiliates) registered under the Investment Company Act of 1940, as amended, that have been rated "AAAm-G" or "AAAm" by S&P or "Aaa" by Moody's so long as the portfolio of such money market mutual fund is limited to Government Obligations and agreements to repurchase Government Obligations. If approved in writing by the Funding Lender, a money market mutual fund portfolio may also contain obligations and agreements to repurchase obligations described in paragraphs (b) or (c). If the Governmental Lender Note is rated by a Rating Agency, the money market mutual fund must be rated "AAAm-G" or "AAAm" by S&P, if S&P is a Rating Agency, or "Aaa" by Moody's, if Moody's is a Rating Agency. If at any time the Governmental Lender Note is not rated (and, consequently, there is no Rating Agency), then the money market mutual fund must be rated "AAAm-G" or "AAAm" by S&P or Aaa by Moody's. If at any time (i) the Governmental Lender Note is not rated, (ii) both S&P and Moody's rate a money market mutual fund and (iii) one of those ratings is below the level required by this paragraph, then such money market mutual fund will, nevertheless, be deemed to be rated in the Highest Rating Category if the lower rating is no more than one rating category below the highest rating category of that rating agency.

(i) Any other investment authorized by the laws of the State, if such investment is approved in writing by the Funding Lender.

Permitted Investments shall not include any of the following:

(1) Except for any investment described in the next sentence, any investment with a final maturity or any agreement with a term greater than one year from the date of the investment. This exception (1) shall not apply to Permitted Investments listed in paragraphs (g) and (i).

(2) Except for any obligation described in paragraph (a) or (b), any obligation with a purchase price greater or less than the par value of such obligation.

(3) Any asset backed security, including mortgage backed securities, real estate mortgage investment conduits, collateralized mortgage obligations, credit card receivable asset backed securities and auto loan asset backed securities.

(4) Any interest only or principal only stripped security.

(5) Any obligation bearing interest at an inverse floating rate.

(6) Any investment which may be prepaid or called at a price less than its purchase price prior to stated maturity.

(7) Any investment the interest rate on which is variable and is established other than by reference to a single index plus a fixed spread, if any, and which interest rate moves proportionately with that index.

(8) Any investment described in paragraph (d) or (g) with, or guaranteed or insured by, a Qualified Financial Institution described in clause (iv) of the definition of Qualified Financial Institution if such institution does not agree to submit to jurisdiction, venue and service of process in the United States of America in the agreement relating to the investment.

(9) Any investment to which S&P has added an "r" or "t" highlighter.

**"Person"** shall mean any individual, corporation, limited liability company, partnership, joint venture, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

**"Pledged Revenues"** shall mean the amounts pledged under this Funding Loan Agreement to the payment of the principal of, prepayment premium, if any, and interest on the Funding Loan and the Governmental Lender Note, consisting of the following: (i) all income, revenues, proceeds and other amounts to which the Governmental Lender is entitled (other than amounts received by the Governmental Lender with respect to the Unassigned Rights) derived from or in connection with the Project and the Funding Loan Documents, including all Borrower Loan Payments due under the Borrower Loan Agreement and the Borrower Note, payments with respect to the Borrower Loan Payments and all amounts obtained through the exercise of the remedies provided in the Funding Loan Documents and all receipts credited under the provisions of this Funding Loan Agreement against said amounts payable, and

(ii) moneys held in the funds and accounts established under this Funding Loan Agreement, together with investment earnings thereon.

**“Potential Default”** shall have the meaning ascribed to that term in the Borrower Loan Agreement.

**“Prepayment Premium”** shall mean (i) any premium payable by the Borrower pursuant to the Borrower Loan Documents in connection with a prepayment of the Borrower Note (including any Prepayment Premium as set forth in the Borrower Note) and (ii) any premium payable on the Governmental Lender Note pursuant to this Funding Loan Agreement.

**“Project”** shall have the meaning given to that term in the Ordinance.

**“Qualified Financial Institution”** shall mean any (i) bank or trust company organized under the laws of any state of the United States of America, (ii) national banking association, (iii) savings bank, savings and loan association, or insurance company or association chartered or organized under the laws of any state of the United States of America, (iv) federal branch or agency pursuant to the International Banking Act of 1978 or any successor provisions of law or a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States of America, (v) government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, (vi) securities dealer approved in writing by the Funding Lender the liquidation of which is subject to the Securities Investors Protection Corporation or other similar corporation and (vii) other entity which is acceptable to the Funding Lender. With respect to an entity which provides an agreement held by the Funding Lender for the investment of moneys at a guaranteed rate as set out in paragraph (g) of the definition of the term “Permitted Investments” or an entity which guarantees or insures, as applicable, the agreement, a “Qualified Financial Institution” may also be a corporation or limited liability company organized under the laws of any state of the United States of America.

**“Rating Agency”** shall mean any one and each of S&P, Moody’s and Fitch then rating the Permitted Investments or any other nationally recognized statistical rating agency then rating the Permitted Investments, which has been approved by the Funding Lender.

**“Regulations”** shall mean with respect to the Code, the relevant U.S. Treasury regulations and proposed regulations thereunder or any relevant successor provision to such regulations and proposed regulations.

**“Regulatory Agreement”** shall mean that certain Land Use Restriction Agreement, dated as of the Closing Date, by and between the Governmental Lender and the Borrower, as hereafter amended or modified.

**“Remaining Funding Loan Proceeds Account”** has the meaning set forth in the Contingency Draw-Down Agreement.

**“Remaining Funding Loan Proceeds Account Earnings Subaccount”** has the meaning set forth in the Contingency Draw-Down Agreement.

**“Required Transferee Representations”** shall mean the representations in substantially the form attached to this Funding Loan Agreement as Exhibit B.”

**“Second Highest Rating Category”** shall mean, with respect to a Permitted Investment, that the Permitted Investment is rated by each Rating Agency in the second highest rating category given by that Rating Agency for that general category of security. If at any time the Governmental Lender Note is not rated (and, consequently, there is no Rating Agency), then the term **“Second Highest Rating Category”** means, with respect to a Permitted Investment, that the Permitted Investment is rated by S&P or Moody’s in the second highest rating category given by that rating agency for that general category of security. By way of example, the Second Highest Rating Category for tax-exempt municipal debt established by S&P is **“AA”** for a term greater than one year, with corresponding ratings by Moody’s of **“Aa.”** If at any time (i) the Governmental Lender Note is not rated, (ii) both S&P and Moody’s rate a Permitted Investment and (iii) one of those ratings is below the Second Highest Rating Category, then such Permitted Investment will not be deemed to be rated in the Second Highest Rating Category. For example, an Investment rated **“AA”** by S&P and **“A”** by Moody’s is not rated in the Second Highest Rating Category.

**“Securities Act”** shall mean the Securities Act of 1933, as amended.

**“Security”** shall mean the security for the performance by the Governmental Lender of its obligations under the Governmental Lender Note and this Funding Loan Agreement as more fully set forth in Article IV hereof.

**“Security Instrument”** shall mean the Mortgage, Security Agreement, Fixture Filing and Assignment of Leases and Rents (as amended, restated and/or supplemented from time to time) of even date herewith, made by the Borrower in favor of the Governmental Lender, as assigned to the Funding Lender to secure the performance by the Governmental Lender of its obligations under the Funding Loan.

**“Servicer”** shall mean any Servicer appointed by the Funding Lender to perform certain servicing functions with respect to the Funding Loan and on the Borrower Loan pursuant to a separate servicing agreement to be entered into between the Funding Lender and the Servicer. Initially the Servicer shall be the Funding Lender pursuant to this Funding Loan Agreement.

**“Servicing Agreement”** shall mean any servicing agreement entered into between the Funding Lender and a Servicer with respect to the servicing of the Funding Loan and/or the Borrower Loan, if any.

**“S&P”** shall mean Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business division, and its successors.

**“State”** shall mean the State of Illinois.

**“Tax Compliance Agreement”** shall mean the Tax Compliance Agreement, dated the Closing Date, executed and delivered by the Governmental Lender and the Borrower.

**“Tax Counsel”** shall mean ArentFox Schiff LLP, or any other attorney or firm of attorneys designated by the Governmental Lender and approved by the Funding Lender having a national reputation for skill in connection with the authorization and issuance of municipal obligations under Sections 103 and 141 through 150 (or any successor provisions) of the Code.

**“Tax Counsel Approving Opinion”** shall mean an opinion of Tax Counsel substantially to the effect that the Governmental Lender Note constitutes a valid and binding obligation of the Governmental Lender and that, under existing statutes, regulations published rulings and judicial decisions, the interest on the Governmental Lender Note is excludable from gross income for federal income tax purposes (subject to the inclusion of such customary exceptions as are acceptable to the recipient thereof).

**“Tax Counsel No Adverse Effect Opinion”** shall mean an opinion of Tax Counsel to the effect that the taking of the action specified therein will not impair the exclusion of interest on the Governmental Lender Note from gross income for purposes of federal income taxation (subject to the inclusion of such customary exceptions as are acceptable to the recipient thereof).

**“UCC”** shall mean the Uniform Commercial Code as in effect in the State.

**“Unassigned Rights”** shall mean the Governmental Lender’s rights to reimbursement and payment of its fees, costs and expenses and the Rebate Amount under Section 2.5 of the Borrower Loan Agreement, its right to payment of the Governmental Lender’s Closing Fee, the Ongoing Fee and any other fees payable to the Governmental Lender under Section 2.5 thereof, its rights to attorneys’ fees under Section 5.14 thereof, its rights to indemnification under Section 5.15 thereof, its rights of access under Section 5.17 thereof, its rights to enforce the terms of the Regulatory Agreement, including Borrower’s covenants to comply with applicable laws, its rights to give and receive notices, reports and other statements and to enforce notice and reporting requirements and restrictions on transfers of ownership of the Project, and its rights to consent to certain matters, as provided in this Funding Loan Agreement and the Borrower Loan Agreement.

**“Written Certificate,” “Written Certification,” “Written Consent,” “Written Direction,” “Written Notice,” “Written Order,” “Written Registration,” “Written Request,” and “Written Requisition”** shall mean a written certificate, direction, notice, order or requisition signed by an Authorized Borrower Representative, an Authorized City Representative or an authorized representative of the Funding Lender and delivered to the Funding Lender, the Servicer or such other Person as required under the Funding Loan Documents.

**“Yield”** shall mean yield as defined in Section 148(h) of the Code and any regulations promulgated thereunder.

**Section 1.2. Effect of Headings and Table of Contents.** The Article and Section headings herein and in the Table of Contents are for convenience only and shall not affect the construction hereof.

**Section 1.3. Date of Funding Loan Agreement.** The date of this Funding Loan Agreement is intended as and for a date for the convenient identification of this Funding Loan Agreement and is not intended to indicate that this Funding Loan Agreement was executed and delivered on said date.

**Section 1.4. Designation of Time for Performance.** Except as otherwise expressly provided herein, any reference in this Funding Loan Agreement to the time of day shall mean the time of day in the city where the Funding Lender maintains its place of business for the performance of its obligations under this Funding Loan Agreement.

**Section 1.5. Interpretation.** The parties hereto acknowledge that each of them and their respective counsel have participated in the drafting and revision of this Funding Loan Agreement. Accordingly, the parties agree that any rule of construction that disfavors the drafting party shall not apply in the interpretation of this Funding Loan Agreement or any amendment or supplement or exhibit hereto.

**ARTICLE II TERMS; GOVERNMENTAL LENDER NOTE****Section 2.1. Terms.**

(a) **Principal Amount.** The total aggregate principal amount of the Funding Loan is hereby expressly limited to the Authorized Amount.

(b) **Draw-Down Funding.** The Funding Loan is originated on a draw-down basis. The proceeds of the Funding Loan shall be advanced by the Funding Lender, as agent for the Governmental Lender, directly to the Title Company who will then advance the proceeds to Borrower as a corresponding advance of the Borrower Loan in accordance with the terms of the Construction Escrow Agreement for the account of the Governmental Lender as and when needed to make each advance in accordance with the disbursement provisions of the Borrower Loan Agreement and the Construction Funding Agreement. Upon each advance of principal under the Borrower Loan Agreement and the Construction Funding Agreement, a like amount of the Funding Loan shall be deemed concurrently and simultaneously advanced under this Funding Loan Agreement, including the initial advance of \$55,000. Notwithstanding anything in this Funding Loan Agreement to the contrary, no additional amounts of the Funding Loan may be drawn down and funded hereunder after \_\_\_\_\_ 2027; provided, however, that upon the delivery of a Tax Counsel No Adverse Effect Opinion to the Governmental Lender and the Funding Lender such date may be changed to a later date as specified in such Tax Counsel No Adverse Effect Opinion. The Governmental Lender has reviewed and approved the form of Contingency Draw-Down Agreement and consents to the terms thereof and agrees to take all actions reasonably required of the Governmental Lender in connection with the conversion of the Funding Loan to a fully drawn loan pursuant to the provisions of the Contingency Draw-Down Agreement in the event a Draw-Down Notice is filed by the Funding Lender or the Borrower.

(c) **Origination Date; Maturity.** The Funding Loan shall be originated, and the Governmental Lender Note shall be issued, on the Closing Date and shall mature on the Maturity Date at which time the entire principal amount, to the extent not previously paid, and all accrued and unpaid interest, shall be due and payable.

(d) **Principal.** The outstanding principal amount of the Governmental Lender Note and of the Funding Loan as of any given date shall be the total amount advanced by the Funding Lender to or for the account of the Governmental Lender to fund corresponding advances under the Borrower Loan Agreement and the Construction Funding Agreement as proceeds of the Borrower Loan, less any payments of principal of the Governmental Lender Note previously received upon payment of corresponding principal amounts under the Borrower Note, including regularly scheduled principal payments and voluntary and mandatory prepayments. The principal amount of the Governmental Lender Note and interest thereon shall be payable on the basis specified in this paragraph (d) and in paragraphs (e) and (f) of this Section 2.1.

The Funding Lender shall keep a record of all principal advances and principal repayments made under the Governmental Lender Note and shall upon written request provide the Governmental Lender with a statement of the outstanding principal balance of the Governmental Lender Note and the Funding Loan.

(e) **Interest.** Interest shall be paid on the outstanding principal amount of the Governmental Lender Note at the rate or rates set forth in the Borrower Note and otherwise as set forth in the Borrower Loan Agreement.

(f) **Corresponding Payments.** The payment or prepayment of principal, interest and premium, if any, due on the Governmental Lender Note shall be identical with and shall be made on the same dates, terms and conditions, as the principal, interest, premiums, late payment fees and other amounts due on the Borrower Note. Any payment or prepayment made by the Borrower of principal, interest, premium, if any, due on the Borrower Note shall be deemed to be like payments or prepayments of principal, interest and premium, if any, due on the Governmental Lender Note.

(g) **Usury.** The Governmental Lender intends to conform strictly to the usury laws applicable to this Funding Loan Agreement and the Governmental Lender Note and all agreements made in the Governmental Lender Note, this Funding Loan Agreement and the Funding Loan Documents are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid as interest or the amounts paid for the use of money advanced or to be advanced hereunder exceed the highest lawful rate prescribed under any law which a court of competent jurisdiction may deem applicable hereto. If, from any circumstances whatsoever, the fulfillment of any provision of the Governmental Lender Note, this Funding Loan Agreement or the other Funding Loan Documents shall involve the payment of interest in excess of the limit prescribed by any law which a court of competent jurisdiction may deem applicable hereto, then the obligation to pay interest hereunder shall be reduced to the maximum limit prescribed by law. If from any circumstances whatsoever, the Funding Lender shall ever receive anything of value deemed interest, the amount of which would exceed the highest lawful rate, such amount as would be excessive interest shall be deemed to have been applied, as of the date of receipt by the Funding Lender, to the reduction of the principal remaining unpaid hereunder and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance, such excess shall be refunded to the Borrower. This paragraph shall control every other provision of the Governmental Lender Note, this Funding Loan Agreement and all other Funding Loan Documents.

In determining whether the amount of interest charged and paid might otherwise exceed the limit prescribed by law, the Governmental Lender intends and agrees that (i) interest shall be computed upon the assumption that payments under the Borrower Loan Agreement and other Funding Loan Documents will be paid according to the agreed terms, and (ii) any sums of money that are taken into account in the calculation of interest, even though paid at one time, shall be spread over the actual term of the Funding Loan.

**Section 2.2. Form of Governmental Lender Note.** As evidence of its obligation to repay the Funding Loan, simultaneously with the delivery of this Funding Loan Agreement to the Funding Lender, the Governmental Lender hereby agrees to execute and deliver the Governmental Lender Note. The Governmental Lender Note shall be substantially in the form set forth in Exhibit A attached hereto, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Funding Loan Agreement and the Ordinance.

**Section 2.3. Execution and Delivery of Governmental Lender Note.** The Governmental Lender Note shall be executed on behalf of the Governmental Lender by the manual or facsimile signature of its Chief Financial Officer, and its corporate seal (or a facsimile thereof) shall be thereunto affixed, imprinted, engraved or otherwise reproduced, and attested by the manual or facsimile signature of its City Clerk or Deputy City Clerk. In case any officer of the Governmental Lender whose signature or facsimile signature shall appear on the Governmental Lender Note shall cease to be such officer before the Governmental Lender Note so signed and sealed shall have been actually delivered, such Governmental Lender Note may, nevertheless, be delivered as herein provided, and may be executed and delivered as if the persons who signed or sealed such Governmental Lender Note had not ceased to hold such offices or be so employed. The Governmental Lender Note may be signed and sealed on behalf of the Governmental Lender by such persons as, at the actual time of the execution of the Governmental Lender Note, shall be duly authorized or hold the proper office in or employment by the Governmental

Lender, although at the date of the Governmental Lender Note such persons may not have been so authorized nor have held such office or employment.

**Section 2.4. Required Transferee Representations; Participations; Sale and Assignment.**

(a) The Funding Lender shall deliver to the Governmental Lender the Required Transferee Representations in substantially the form attached hereto as Exhibit B on the Closing Date.

(b) The Funding Lender shall have the right to sell (i) the Governmental Lender Note and the Funding Loan or (ii) any portion of or a participation interest in the Governmental Lender Note and the Funding Loan, to the extent permitted by Section 2.4(c) below, provided that (A) such sale shall be only to Approved Transferees that execute and deliver to the Funding Lender, with a copy to the Governmental Lender, the Required Transferee Representations and (B) if any amendment is to be made to this Funding Loan Agreement or any other Funding Loan Document in conjunction with such transfer, a Tax Counsel No Adverse Effect Opinion.

(c) Notwithstanding the other provisions of this Section 2.4, no beneficial ownership interest in the Governmental Lender Note and Funding Loan shall be sold in an amount that is less than the Minimum Beneficial Ownership Amount.

(d) The Governmental Lender Note or any interest therein, shall be in fully-registered form transferable to subsequent holders only on the registration books which shall be maintained by the Funding Lender for such purpose and which shall be open to inspection by the Governmental Lender. The Governmental Lender Note shall not be transferred through the services of the Depository Trust Company or any other third party registrar.

(e) The parties agree that no rating shall be sought from a rating agency with respect to the Funding Loan or the Governmental Lender Note.

(f) No service charge shall be made for any sale or assignment of the Governmental Lender Note or a participation therein, but the Governmental Lender may require payment of a sum sufficient to cover any tax or other charge that may be imposed in connection with any such sale or assignment and payment of any fees and expenses incurred by the Governmental Lender in connection therewith. Such sums shall be paid in every instance by the purchaser or assignee of the Governmental Lender Note or a participation therein.

**ARTICLE III PREPAYMENT**

**Section 3.1. Prepayment of the Governmental Lender Note from Prepayment under the Borrower Note.** The Governmental Lender Note is subject to voluntary and mandatory prepayment as follows:

(a) The Governmental Lender Note shall be subject to voluntary prepayment in full or in part by the Governmental Lender, from funds of the Governmental Lender received by the Governmental Lender to the extent and in the manner and on any date that the Borrower Note is subject to voluntary prepayment as set forth therein, at a prepayment price equal to the principal balance of the Borrower Note to be prepaid, plus interest thereon to the date of prepayment and the amount of any Prepayment Premium payable under the Borrower Note, plus any Additional Borrower Payments due and payable under the Borrower Loan Agreement through the date of prepayment.

The Borrower shall not have the right to voluntarily prepay all or any portion of the Borrower Note, thereby causing the Governmental Lender Note to be prepaid, except as specifically permitted in the Borrower Note, without the prior written consent of Funding Lender, which may be withheld in Funding Lender's sole and absolute discretion.

(b) The Governmental Lender Note shall be subject to mandatory prepayment in whole or in part upon prepayment of the Borrower Note at the direction of the Funding Lender in accordance with the terms of the Borrower Note at a prepayment price equal to the outstanding principal balance of the Borrower Note prepaid, plus accrued interest plus any other amounts payable under the Borrower Note or the Borrower Loan Agreement.

**Section 3.2. Notice of Prepayment.** Notice of prepayment of the Governmental Lender Note shall be deemed given to the extent that notice of prepayment of the Borrower Note is timely and properly given to Funding Lender in accordance with the terms of the Borrower Note and the Borrower Loan Agreement, and no separate notice of prepayment of the Governmental Lender Note is required to be given.

#### ARTICLE IV SECURITY

**Section 4.1. Security for the Funding Loan.** To secure the payment of the Funding Loan and the Governmental Lender Note, to declare the terms and conditions on which the Funding Loan and the Governmental Lender Note are secured, and in consideration of the premises and of the funding of the Funding Loan by the Funding Lender, the Governmental Lender by these presents does grant, bargain, sell, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, set over and confirm to the Funding Lender (except as limited herein), a lien on and security interest in the following described property (excepting, however, in each case, the Unassigned Rights) (said property, rights and privileges being herein collectively called, the "Security"):

(a) All right, title and interest of the Governmental Lender in, to and under the Borrower Loan Agreement and the Borrower Note, including, without limitation, all rents, revenues and receipts derived by the Governmental Lender from the Borrower relating to the Project and including, without limitation, all Pledged Revenues, Borrower Loan Payments and Additional Borrower Payments derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Borrower Loan Agreement; provided that the pledge and assignment made under this Funding Loan Agreement shall not impair or diminish the obligations of the Governmental Lender under the provisions of the Borrower Loan Agreement;

(b) All right, title and interest of the Governmental Lender in, to and under, together with all rights, remedies, privileges and options pertaining to, the Funding Loan Documents, and all other payments, revenues and receipts derived by the Governmental Lender under and pursuant to, and subject to the provisions of, the Funding Loan Documents;

(c) Any and all moneys and investments from time to time on deposit in, or forming a part of, all funds and accounts created and held under this Funding Loan Agreement and any amounts held at any time in the Remaining Funding Loan Proceeds Account and the Remaining Funding Loan Proceeds Account Earnings Subaccount, any Negative Arbitrage Deposit and any other amounts held under the Contingency Draw-Down Agreement, subject to the provisions of this Funding Loan Agreement permitting the application thereof for the purposes and on the terms and conditions set forth herein; and

(d) Any and all other real or personal property of every kind and nature or description, which may from time to time hereafter, by delivery or by writing of any kind, be subjected to the lien of this

Funding Loan Agreement as additional security by the Governmental Lender or anyone on its part or with its consent, or which pursuant to any of the provisions hereof or of the Borrower Loan Agreement or of the Construction Funding Agreement may come into the possession or control of the Funding Lender or a receiver appointed pursuant to this Funding Loan Agreement; and the Funding Lender is hereby authorized to receive any and all such property as and for additional security for the Funding Loan and the Governmental Lender Note and to hold and apply all such property subject to the terms hereof.

The pledge and assignment of and the security interest granted in the Security pursuant to this Section 4.1 for the payment of the principal of, premium, if any, and interest on the Governmental Lender Note, in accordance with its terms and provisions, and for the payment of all other amounts due hereunder, shall attach and be valid and binding from and after the time of the delivery of the Governmental Lender Note by the Governmental Lender. The Security so pledged and then or thereafter received by the Funding Lender shall immediately be subject to the lien of such pledge and security interest without any physical delivery or recording thereof or further act, and the lien of such pledge and security interest shall be valid and binding and prior to the claims of any and all parties having claims of any kind in tort, contract or otherwise against the Governmental Lender irrespective of whether such parties have notice thereof.

**Section 4.2. Delivery of Security.** To provide security for the payment of the Funding Loan and the Governmental Lender Note, the Governmental Lender has pledged and assigned to secure payment of the Funding Loan and the Governmental Lender Note its right, title and interest in the Security to the Funding Lender. In connection with such pledge, assignment, transfer and conveyance, the Governmental Lender shall deliver to the Funding Lender the following documents or instruments promptly following their execution and, to the extent applicable, their recording or filing:

- (a) The Borrower Note endorsed without recourse to the Funding Lender by the Governmental Lender;
- (b) The originally executed Borrower Loan Agreement and Regulatory Agreement;
- (c) The originally executed Security Instrument and all other Borrower Loan Documents existing at the time of delivery of the Borrower Note and an assignment for security of the Security Instrument from the Governmental Lender to the Funding Lender, in recordable form;
- (d) Uniform Commercial Code financing statements or other chattel security documents giving notice of the Funding Lender's status as an assignee of the Governmental Lender's security interest in any personal property forming part of the Project, in form suitable for filing; and
- (e) Uniform Commercial Code financing statements giving notice of the pledge by the Governmental Lender of the Security pledged under this Funding Loan Agreement.

The Governmental Lender shall deliver and deposit with the Funding Lender such additional documents, financing statements, and instruments as the Funding Lender may reasonably require from time to time for the better perfecting and assuring to the Funding Lender of its lien and security interest in and to the Security including, at the request of the Funding Lender, any amounts held under the Contingency Draw-Down Agreement, at the expense of the Borrower.

#### **ARTICLE V LIMITED LIABILITY**

**Section 5.1. Source of Payment of Governmental Lender Note and Other Obligations; Disclaimer of General Liability.** The Governmental Lender Note, together with premium, if any, and

interest thereon, are special, limited obligations of the Governmental Lender, payable solely from the security pledged hereunder. The Governmental Lender Note is not a general obligation of the Governmental Lender or a charge against its general credit or the general credit taxing powers of the State, the Governmental Lender, or any other political subdivision thereof, and shall never give rise to any pecuniary liability of the Governmental Lender, and neither the Governmental Lender, the State nor any other political subdivision thereof shall be liable for the payments of principal of and, premium, if any, and interest on the Governmental Lender Note, and the Governmental Lender Note is payable from no other source, but are special, limited obligations of the Governmental Lender, payable solely out of the security pledged hereunder and receipts of the Governmental Lender derived pursuant to this Funding Loan Agreement. No holder of the Governmental Lender Note or any interest therein has the right to compel any exercise of the taxing power of the State, the Governmental Lender or any other political subdivision thereof to pay the Governmental Lender Note or the interest or premium, if any, thereon.

**Section 5.2. Exempt from Individual Liability.** No recourse shall be had for the payment of the principal of, premium, if any, or the interest on the Governmental Lender Note or for any claim based thereon or any obligation, covenant or agreement in this Funding Loan Agreement against any official, officer, agent, employee or independent contractor of the Governmental Lender or any person executing the Governmental Lender Note in his or her personal capacity. No covenant, stipulation, promise, agreement or obligation contained in the Governmental Lender Note, this Funding Loan Agreement or any other document executed in connection herewith shall be deemed to be the covenant, stipulation, promise, agreement or obligation of any present or future official, officer, agent or employee of the Governmental Lender in his or her individual capacity and neither any official of the Governmental Lender nor any officers executing the Governmental Lender Note shall be liable personally on the Governmental Lender Note or under this Funding Loan Agreement or be subject to any personal liability or accountability by reason of the execution and delivery of the Governmental Lender Note or the execution of this Funding Loan Agreement.

#### **ARTICLE VI CLOSING CONDITIONS; APPLICATION OF FUNDS**

**Section 6.1. Conditions Precedent to Closing.** Closing of the Funding Loan on the Closing Date shall be conditioned upon satisfaction or express written waiver by the Funding Lender in its sole discretion of each of the conditions precedent to closing set forth in this Funding Loan Agreement, including but not limited to the following:

- (a) Receipt by the Funding Lender of the original Governmental Lender Note;
- (b) Receipt by the Funding Lender of the original executed Borrower Note, endorsed to the Funding Lender by the Governmental Lender;
- (c) Receipt by the Funding Lender of executed counterpart copies of this Funding Loan Agreement, the Borrower Loan Agreement, the Construction Funding Agreement, the Regulatory Agreement, the Tax Compliance Agreement, the Forward Bond Purchase Agreement and the Security Instrument;
- (d) A certified copy of the Ordinance;
- (e) Executed Required Transferee Representations from each initial Funding Lender;
- (f) Delivery into escrow of all amounts required to be paid in connection with the origination of the Borrower Loan and the Funding Loan and any underlying real estate transfers or transactions,

including the Costs of Funding Deposit, in accordance with Section 2.3(c)(ii) of the Borrower Loan Agreement;

- (g) Receipt by the Funding Lender of a Tax Counsel Approving Opinion;
- (h) Receipt by the Funding Lender of an Opinion of Counsel from Co-Bond Counsel to the effect that the Governmental Lender Note is exempt from registration under the Securities Act, and this Funding Loan Agreement is exempt from qualification under the Trust Indenture Act of 1939, as amended;
- (i) Delivery of an opinion of counsel to the Borrower addressed to the Governmental Lender and the Funding Lender to the effect that the Borrower Loan Documents and the Regulatory Agreement are valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their terms, subject to such exceptions and qualifications as are acceptable to the Governmental Lender and the Funding Lender; and
- (j) Receipt by the Funding Lender of any other documents or opinions that the Funding Lender or Co-Bond Counsel may reasonably require.

#### ARTICLE VII FUNDS AND ACCOUNTS

**Section 7.1. Authorization to Create Funds and Accounts.** No funds or accounts shall be established in connection with the Funding Loan at the time of closing and origination of the Funding Loan. The Funding Lender and the Servicer, if any, are authorized to establish and create from time to time such other funds and accounts or subaccounts as may be necessary for the deposit of moneys (including, without limitation, insurance proceeds and/or condemnation awards), if any, received by the Governmental Lender, the Funding Lender or the Servicer pursuant to the terms hereof or any of the other Funding Loan Documents and not immediately transferred or disbursed pursuant to the terms of the Funding Loan Documents and/or the Borrower Loan Documents.

**Section 7.2. Investment of Funds.** Amounts held in any funds or accounts created under this Funding Loan Agreement shall be invested in Permitted Investments at the direction of the Borrower, subject in all cases to the restrictions of Section 8.7 hereof and of the Tax Compliance Agreement.

#### ARTICLE VIII REPRESENTATIONS AND COVENANTS

**Section 8.1. General Representations.** The Governmental Lender makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Governmental Lender is a municipality and home rule unit of local government duly organized and validly existing under the Constitution and laws of the State. The Governmental Lender has power and lawful authority to adopt the Ordinance, to execute and deliver the Funding Loan Documents to which it is a party, to execute and deliver the Governmental Lender Note and receive the proceeds of the Funding Loan, to apply the proceeds of the Funding Loan to make the Borrower Loan, to assign the revenues derived and to be derived by the Governmental Lender from the Borrower Loan to the Funding Lender, and to perform and observe the provisions of the Funding Loan Documents to which it is a party and the Governmental Lender Note on its part to be performed and observed.

(b) The City Council of the Governmental Lender has approved the Ordinance and the Ordinance has not been amended, modified or rescinded and is in full force and effect as of the date hereof.

(c) The Governmental Lender has duly authorized the execution and delivery of each of the Funding Loan Agreement and the Governmental Lender Note and the performance of the obligations of the Governmental Lender thereunder.

(d) The Governmental Lender makes no representation or warranty, express or implied, that the proceeds of the Funding Loan will be sufficient to finance the acquisition, construction and equipping of the Project or that the Project will be adequate or sufficient for the Borrower's intended purposes.

(e) The revenues and receipts to be derived from the Borrower Loan Agreement, the Borrower Note and this Funding Loan Agreement have not been pledged previously by the Governmental Lender to secure any of its notes or bonds other than the repayment of the Funding Loan.

THE GOVERNMENTAL LENDER MAKES NO REPRESENTATION, COVENANT OR AGREEMENT AS TO THE FINANCIAL POSITION OR BUSINESS CONDITION OF THE BORROWER OR THE PROJECT AND DOES NOT REPRESENT OR WARRANT AS TO ANY STATEMENTS, MATERIALS, REPRESENTATIONS OR CERTIFICATIONS FURNISHED BY THE BORROWER IN CONNECTION WITH THE FUNDING LOAN OR THE BORROWER LOAN OR AS TO THE CORRECTNESS, COMPLETENESS OR ACCURACY THEREOF.

**Section 8.2. Further Assurances.** The Governmental Lender will do, execute, acknowledge, when appropriate, and deliver from time to time at the request of the Funding Lender, to the extent permitted by the Ordinance, such further acts, instruments, financing statements and other documents as are necessary or desirable to better assure, transfer, pledge or assign to the Funding Lender or holders of interest in the Funding Loan, and grant a security interest unto the Funding Lender or holders of interests in the Funding Loan in and to the Security and the other properties and revenues herein described and otherwise to carry out the intent and purpose of the Funding Loan Documents and the Funding Loan.

**Section 8.3. Payment of Funding Loan Obligations.** The Governmental Lender will pay or cause to be paid the principal of, prepayment premium, if any, and the interest on the Funding Loan as the same become due, but solely from the Security, as described in Section 5.1 of this Funding Loan Agreement.

**Section 8.4. Funding Loan Agreement Performance.** The Funding Lender, on behalf of the Governmental Lender and with the Written Consent of the Governmental Lender, may (but shall not be required or obligated) perform and observe any such agreement or covenant of the Governmental Lender under the Funding Loan Agreement, all to the end that the Governmental Lender's rights under the Borrower Loan Agreement may be unimpaired and free from default.

**Section 8.5. Servicer.** The Funding Lender may appoint a Servicer to service and administer the Governmental Loan and the Borrower Loan on behalf of the Funding Lender, including without limitation the fulfillment of rights and responsibilities granted by Governmental Lender to Funding Lender pursuant to Section 2.1 of the Borrower Loan Agreement; provided, however, that no appointment of a Servicer shall release the Funding Lender from ultimate responsibility for any obligation hereunder.

**Section 8.6. Tax Covenants.** The Governmental Lender covenants to and for the benefit of the Funding Lender and any other holders of an interest in the Governmental Lender Note that, notwithstanding any other provisions of this Funding Loan Agreement or of any other instrument, it will:

(i) At all times do and perform all acts and things permitted by law and this Funding Loan Agreement which are necessary or desirable in order to assure, and will not knowingly take

any action which will adversely affect, the tax-exempt status of the Governmental Lender Note; and

(ii) Not use or knowingly permit the use of any proceeds of the Funding Loan or other funds of the Governmental Lender, directly or indirectly, in any manner, and will not take or permit to be taken any other action or actions, which would result in any of the Governmental Lender Note being treated as an obligation not described in Section 142(a)(7) of the Code by reason of the Governmental Lender Note or interest thereon not meeting the requirements of Section 142(d) of the Code;

In furtherance of the covenants in this Section 8.6, the Governmental Lender and the Borrower shall execute, deliver and comply with the provisions of the Tax Compliance Agreement, which are by this reference incorporated into this Funding Loan Agreement and made a part of this Funding Loan Agreement as if set forth in this Funding Loan Agreement in full, and by its acceptance of this Funding Loan Agreement the Funding Lender acknowledges receipt of the Tax Compliance Agreement and acknowledges its incorporation in this Funding Loan Agreement by this reference. The Funding Lender agrees it will invest funds held under this Funding Loan Agreement in Permitted Investments in accordance with the direction of the Borrower and the terms of this Funding Loan Agreement and the Tax Compliance Agreement (this covenant shall extend throughout the term of the Funding Loan, to all funds and accounts created under or in connection with this Funding Loan Agreement and all moneys on deposit to the credit of any Fund or Account); provided that the Funding Lender shall be deemed to have complied with such requirements and shall have no liability to the extent it reasonably follows directions of the Borrower not inconsistent with the terms of this Funding Loan Agreement and the Tax Compliance Agreement or otherwise complies with the provisions of the Funding Loan Agreement relating to funds and accounts.

For purposes of this Section 8.6 the Governmental Lender's compliance shall be based solely on matters within the Governmental Lender's control and no acts, omissions or directions of the Borrower, the Funding Lender or any other Persons shall be attributed to the Governmental Lender.

In complying with the foregoing covenants, the Governmental Lender may rely from time to time on a Tax Counsel No Adverse Effect Opinion or other appropriate opinion of Tax Counsel.

**Section 8.7. Performance by the Borrower.** Without relieving the Governmental Lender from the responsibility for performance and observance of the agreements and covenants required to be performed and observed by it hereunder, the Borrower, on behalf of the Governmental Lender and with the Written Consent of the Governmental Lender, may perform any such agreement or covenant if no Borrower Loan Agreement Default or Potential Default under the Borrower Loan Agreement exists.

**Section 8.8. Repayment of Funding Loan.** Subject to the provisions of Article V hereof, the Governmental Lender will duly and punctually repay, or cause to be repaid, but solely from the Security set forth in Article IV hereof, the Funding Loan, as evidenced by the Governmental Lender Note, as and when the same shall become due, all in accordance with the terms of the Governmental Lender Note and this Funding Loan Agreement.

**Section 8.9. Borrower Loan Agreement Performance.**

(a) The Servicer and the Funding Lender, on behalf of the Governmental Lender and with Written Notice to the Governmental Lender, may (but shall not be required or obligated to) perform and observe any such agreement or covenant of the Governmental Lender under the Borrower Loan

Agreement, all to the end that the Governmental Lender's rights under the Borrower Loan Agreement may be unimpaired and free from default.

(b) The Governmental Lender will promptly notify the Borrower, the Servicer and the Funding Lender in writing of the occurrence of any Borrower Loan Agreement Default, provided that the Governmental Lender has received written notice or otherwise has actual knowledge of such event; and further provided that the Governmental Lender shall have no liability to any person for its failure to provide any such notice so long as it has made a good faith effort to comply with such provisions.

(c) The Funding Lender will promptly notify the Borrower, the Servicer, if any, and the Governmental Lender in writing of the occurrence of any Event of Default or any Borrower Loan Agreement Default known to the Funding Lender, provided that the Funding Lender shall have no liability to any person for its failure to provide any such notice so long as it has made a good faith effort to comply with such provisions.

#### **Section 8.10. Maintenance of Records; Inspection of Records.**

(a) The Funding Lender shall keep and maintain adequate records pertaining to the funds and accounts, if any, established hereunder, including all deposits to and disbursements from said funds and accounts and shall keep and maintain the registration books for the Funding Loan and interests therein. The Funding Lender shall retain in its possession all certifications and other documents presented to it, all such records and all records of principal, interest and prepayment premium, if any, paid on the Funding Loan, subject to the inspection of the Borrower, the Governmental Lender, the Servicer and their representatives at all reasonable times and upon reasonable prior notice.

(b) The Governmental Lender will at any and all times, upon the reasonable request of the Servicer, the Borrower or the Funding Lender, afford and procure a reasonable opportunity by their respective representatives to inspect the books, records, reports and other papers of the Governmental Lender relating to the Project and the Funding Loan, if any, and to make copies thereof.

**Section 8.11. Representations and Warranties of the Funding Lender.** The Funding Lender hereby represents to the Governmental Lender and the Borrower that it is duly authorized to enter into and perform this Funding Loan Agreement, and has full authority to take such action as it may deem advisable with respect to all matters pertaining to this Funding Loan Agreement.

### **ARTICLE IX DEFAULT; REMEDIES**

**Section 9.1. Events of Default.** Any one or more of the following shall constitute an event of default (an "Event of Default") under this Funding Loan Agreement (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or Governmental body):

(a) A default in the payment of any interest upon the Governmental Lender Note when such interest becomes due and payable; or

(b) A default in the payment of principal of, or premium on, the Governmental Lender Note when such principal or premium becomes due and payable, whether at its stated maturity, by declaration of acceleration or call for mandatory prepayment or otherwise; or

(c) Subject to Section 8.7 hereof, default in the performance or breach of any material covenant or warranty of the Governmental Lender in this Funding Loan Agreement (other than a covenant or warranty or default in the performance or breach of which is elsewhere in this Section specifically dealt with), and continuance of such default or breach for a period of 30 days after there has been given written notice, as provided in Section 11.1 hereof, to the Governmental Lender and the Borrower by the Funding Lender or the Servicer, specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" under this Funding Loan Agreement; provided that, so long as the Governmental Lender has commenced to cure such failure to observe or perform within the thirty (30) day cure period and the subject matter of the default is not capable of cure within said thirty (30) day period and the Governmental Lender is diligently pursuing such cure to the Funding Lender's satisfaction, with the Funding Lender's Written Direction or Written Consent, then the Governmental Lender shall have an additional period of time as reasonably necessary (not to exceed 30 days unless extended in writing by the Funding Lender) within which to cure such default; or

(d) A default in the payment of any Additional Borrower Payments; or

(e) Any other "Default" or "Event of Default" under any of the other Funding Loan Documents (taking into account any applicable grace periods therein).

**Section 9.2. Acceleration of Maturity; Rescission and Annulment.**

(a) Subject to the provisions of Section 9.9 hereof, upon the occurrence of an Event of Default under Section 9.1 hereof, then and in every such case, the Funding Lender may declare the principal of the Funding Loan and the Governmental Lender Note and the interest accrued to be immediately due and payable, by notice to the Governmental Lender and the Borrower and upon any such declaration, all principal of and Prepayment Premium, if any, and interest on the Funding Loan and the Governmental Lender Note shall become immediately due and payable.

(b) At any time after a declaration of acceleration has been made pursuant to subsection (a) of this Section, the Funding Lender may by Written Notice to the Governmental Lender, rescind and annul such declaration and its consequences if:

There has been deposited with the Funding Lender a sum sufficient to pay (1) all overdue installments of interest on the Governmental Lender Note, (2) the principal of and Prepayment Premium on the Governmental Lender Note that has become due otherwise than by such declaration of acceleration and interest thereon at the rate or rates prescribed therefor in the Governmental Lender Note, (3) to the extent that payment of such interest is lawful, interest upon overdue installments of interest at the rate or rates prescribed therefor in the Governmental Lender Note, and (4) all sums paid or advanced by the Funding Lender and the reasonable compensation, expenses, disbursements and advances of the Funding Lender, its agents and counsel (but only to the extent not duplicative with subclauses (1) and (3) above); and

All Events of Default, other than the non payment of the principal of the Government Lender Note which have become due solely by such declaration of acceleration, have been cured or have been waived in writing as provided in Section 9.9 hereof.

No such rescission and annulment shall affect any subsequent default or impair any right consequent thereon.

Notwithstanding the occurrence and continuation of an Event of Default, it is understood that the Funding Lender shall pursue no remedies against the Borrower or the Project if no Borrower Loan

Agreement Default has occurred and is continuing. An Event of Default hereunder shall not in and of itself constitute a Borrower Loan Agreement Default or a default under any other Funding Loan Document.

**Section 9.3. Additional Remedies; Funding Lender Enforcement.**

(a) Upon the occurrence of an Event of Default, the Funding Lender may, subject to the provisions of this Section 9.3 and Section 9.9 hereof, proceed to protect and enforce its rights by mandamus or other suit, action or proceeding at law or in equity. No remedy conferred by this Funding Loan Agreement upon or remedy reserved to the Funding Lender is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and shall be in addition to any other remedy given to the Funding Lender hereunder or now or hereafter existing at law or in equity or by statute.

(b) Upon the occurrence and continuation of any Event of Default, the Funding Lender may proceed forthwith to protect and enforce its rights and this Funding Loan Agreement by such suits, actions or proceedings as the Funding Lender, in its sole discretion, shall deem expedient. Funding Lender shall have upon the occurrence and continuation of any Event of Default all rights, powers, and remedies with respect to the Security as are available under the Uniform Commercial Code applicable thereto or as are available under any other applicable law at the time in effect and, without limiting the generality of the foregoing, the Funding Lender may proceed at law or in equity or otherwise, to the extent permitted by applicable law:

(i) to take possession of the Security or any part thereof, with or without legal process, and to hold, service, administer and enforce any rights thereunder or thereto, and otherwise exercise all rights of ownership thereof, including (but not limited to) the sale of all or part of the Security;

(ii) to become mortgagee of record for the Borrower Loan including, without limitation, completing the assignment of the Security Instrument by the Governmental Lender to the Funding Lender as anticipated by this Funding Loan Agreement, and recording the same in the real estate records of the jurisdiction in which the Project is located, without further act or consent of the Governmental Lender, and to service and administer the same for its own account;

(iii) to service and administer the Funding Loan as agent and on behalf of the Governmental Lender or otherwise, and, if applicable, to take such actions necessary to enforce the Borrower Loan Documents and the Funding Loan Documents on its own behalf, and to take such alternative courses of action, as it may deem appropriate; or

(iv) to take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement in the Governmental Lender Note, this Funding Loan Agreement or the other Funding Loan Documents, or the Borrower Loan Documents, or in and of the execution of any power herein granted, or for foreclosure hereunder, or for enforcement of any other appropriate legal or equitable remedy or otherwise as the Funding Lender may elect.

Whether or not an Event of Default has occurred, and except as provided in Section 9.15, the Funding Lender, in its sole discretion, shall have the sole right to waive or forbear any term, condition, covenant or agreement of the Security Instrument, the Borrower Loan Agreement, the Borrower Note or any other Borrower Loan Documents or Funding Loan Documents applicable to the Borrower, or any breach thereof, other than a covenant that would adversely impact the tax-exempt status of the interest on

the Governmental Lender Note, and provided that the Governmental Lender may enforce specific performance with respect to the Unassigned Rights.

If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in the Regulatory Agreement, and if such default remains uncured for a period of 60 days after the Borrower and the Funding Lender receive Written Notice stating that a default under the Regulatory Agreement has occurred and specifying the nature of the default, the Funding Lender shall have the right to seek specific performance of the provisions of the Regulatory Agreement or to exercise its other rights or remedies thereunder.

If the Borrower defaults in the performance of its obligations under the Borrower Loan Agreement to make rebate payments, to comply with any applicable continuing disclosure requirements, or to make payments owed pursuant to Sections 2.5, 5.14 or 5.15 of the Borrower Loan Agreement for fees, expenses or indemnification, the Funding Lender shall have the right to exercise all its rights and remedies thereunder (subject to the last paragraph of Section 9.14 hereof).

**Section 9.4. Application of Money Collected.** Any money collected by the Funding Lender pursuant to this Article and any other sums then held by the Funding Lender as part of the Security, shall be applied in the following order, at the date or dates fixed by the Funding Lender:

(a) First: To the payment of any and all fees due the Governmental Lender, the Servicer or the Rebate Analyst under the Borrower Loan Documents;

(b) Second: To the payment of any and all amounts due under the Funding Loan Documents other than with respect to principal and interest accrued on the Funding Loan;

(c) Third: To the payment of the whole amount of the Funding Loan, as evidenced by the Governmental Lender Note, then due and unpaid in respect of which or for the benefit of which such money has been collected, with interest (to the extent that such interest has been collected or a sum sufficient therefor has been so collected and payment thereof is legally enforceable at the respective rate or rates prescribed therefor in the Governmental Lender Note) on overdue principal of, and Prepayment Premium and overdue installments of interest on the Governmental Lender Note; provided, however, that partial interests in any portion of the Governmental Lender Note shall be paid in such order of priority as may be prescribed by Written Direction of the Funding Lender in its sole and absolute discretion; and

(d) Fourth: The payment of the remainder, if any, to the Borrower or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

(e) If and to the extent this Section 9.4 conflicts with the provisions of the Servicing Agreement, the provisions of the Servicing Agreement shall control. Capitalized terms used in this Section 9.4 but not otherwise defined in this Funding Loan Agreement shall have the meanings given such terms in the Servicing Agreement.

**Section 9.5. Remedies Vested in Funding Lender.** All rights of action and claims under this Funding Loan Agreement or the Governmental Lender Note may be prosecuted and enforced by the Funding Lender without the possession of the Governmental Lender Note or the production thereof in any proceeding relating thereto.

**Section 9.6. Restoration of Positions.** If Funding Lender shall have instituted any proceeding to enforce any right or remedy under this Funding Loan Agreement and such proceeding shall have been discontinued or abandoned for any reason or shall have been determined adversely to the

Funding Lender, then and in every such case the Governmental Lender and the Funding Lender shall, subject to any determination in such proceeding, be restored to their former positions hereunder, and thereafter all rights and remedies of the Governmental Lender and the Funding Lender shall continue as though no such proceeding had been instituted.

**Section 9.7. Rights and Remedies Cumulative.** No right or remedy herein conferred upon or reserved to the Funding Lender is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

**Section 9.8. Delay or Omission Not Waiver.** No delay or omission of the Funding Lender to exercise any right or remedy accruing upon an Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Funding Lender may be exercised from time to time, and as often as may be deemed expedient, by Funding Lender. No waiver of any default or Event of Default pursuant to Section 9.9 hereof shall extend to or shall affect any subsequent default or Event of Default hereunder or shall impair any rights or remedies consequent thereon.

**Section 9.9. Waiver of Past Defaults.** Before any judgment or decree for payment of money due has been obtained by the Funding Lender, the Funding Lender may, subject to Section 9.6 hereof, by Written Notice to the Governmental Lender and the Borrower, waive any past default hereunder or under the Borrower Loan Agreement and its consequences except for default in obligations due the Governmental Lender pursuant to or under the Unassigned Rights. Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Funding Loan Agreement and the Borrower Loan Agreement; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

**Section 9.10. Remedies Under Borrower Loan Agreement or Borrower Note.** As set forth in this Section 9.10 but subject to Section 9.9 hereof, the Funding Lender shall have the right, in its own name or on behalf of the Governmental Lender, to declare any default and exercise any remedies under the Borrower Loan Agreement or the Borrower Note, whether or not the Governmental Lender Note has been accelerated or declared due and payable by reason of an Event of Default.

**Section 9.11. Waiver of Appraisal and Other Laws.**

(a) To the extent permitted by law, the Governmental Lender will not at any time insist upon, plead, claim or take the benefit or advantage of, any appraisal, valuation, stay, extension or redemption law now or hereafter in force, in order to prevent or hinder the enforcement of this Funding Loan Agreement; and the Governmental Lender, for itself and all who may claim under it, so far as it or they now or hereafter may lawfully do so, hereby waives the benefit of all such laws. The Governmental Lender, for itself and all who may claim under it, waives, to the extent that it may lawfully do so, all right to have the property in the Security marshaled upon any enforcement hereof.

(b) If any law now in effect prohibiting the waiver referred to in Section 9.11(a) shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to constitute any part of the contract herein contained or to preclude the application of this Section 9.11.

**Section 9.12. Suits to Protect the Security.** The Funding Lender shall have power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Security by

any acts that may be unlawful or in violation of this Funding Loan Agreement and to protect its interests in the Security and in the rents, issues, profits, revenues and other income arising therefrom, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any Governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security hereunder or be prejudicial to the interests of the Funding Lender.

**Section 9.13. Remedies Subject to Applicable Law.** All rights, remedies and powers provided by this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that they will not render this Funding Loan Agreement invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law.

**Section 9.14. Assumption of Obligations.** In the event that the Funding Lender or its permitted assignee or designee in accordance with Section 2.4 hereof shall become the legal or beneficial owner of the Project by foreclosure or deed in lieu of foreclosure, such party shall succeed to the rights and the obligations of the Borrower under the Borrower Loan Agreement, the Borrower Note, the Regulatory Agreement and any other Funding Loan Documents to which the Borrower is a party. Such assumption shall be effective from and after the effective date of such acquisition and shall be made with the benefit of the limitations of liability set forth therein and without any liability for the prior acts of the Borrower.

It is the intention of the parties hereto that upon the occurrence and continuance of an Event of Default hereunder, rights and remedies may be pursued pursuant to the terms of the Funding Loan Documents, subject to the last paragraph of Section 9.2.

**Section 9.15. Remedies upon Unremedied Material Funding Lender Event.** Upon the occurrence of a Material Funding Lender Event which shall continue unremedied for a period of 60 days (a "Funding Lender Event of Default"), the Governmental Lender may direct that the Governmental Lender Note be transferred to and obligations and liabilities thereunder be assumed by another lender approved to act as Funding Lender by the Governmental Lender pursuant to Section 2.4(b) hereof and acceptable to the Borrower; provided, however, that no such transfer shall become effective until the Funding Lender has been fully reimbursed for all advances made and all expenses incurred and all other amounts owed to Funding Lender with respect to the Governmental Lender Note through the date of transfer, and shall be fully released in writing by the Governmental Lender, the Borrower and the successor Funding Lender from any and all continuing obligations and liabilities with respect to the Funding Loan and the Funding Lender shall be indemnified by the Borrower for any losses incurred by such Funding Lender with respect to the Funding Loan (except losses arising from such Funding Lender's gross negligence or willful misconduct or pursuant to clause (b)(2) of the definition of Material Funding Lender Event). Notwithstanding anything herein to the contrary contained, Funding Lender shall not be liable to the Governmental Lender or the Borrower for any loss of tax-exemption, tax or other charge that may be imposed in connection with any such sale or assignment or for any fees and expenses incurred by the Governmental Lender or Borrower in connection therewith; nor shall such Funding Lender be liable to the Governmental Lender or Borrower for any special, indirect, consequential, exemplary or punitive damages, all such liability being expressly waived, to the fullest extent permitted by law.

**ARTICLE X AMENDMENT; AMENDMENT OF BORROWER LOAN AGREEMENT  
AND OTHER DOCUMENTS**

**Section 10.1. Amendment of Funding Loan Agreement.** Any of the terms of this Funding Loan Agreement and the Governmental Lender Note may be amended or waived only by an instrument signed by the Funding Lender and the Governmental Lender, provided, however, no such amendment which materially affects the rights, duties, obligations or other interests of the Borrower shall be made without the consent of the Borrower, and, provided further, that if the Borrower is in default under any Funding Loan Document, no Borrower consent shall be required unless such amendment has a material adverse effect on the rights, duties, obligations or other interests of the Borrower. All of the terms of this Funding Loan Agreement shall be binding upon the successors and assigns of and all persons claiming under or through the Governmental Lender or any such successor or assign, and shall inure to the benefit of and be enforceable by the successors and assigns of the Funding Lender.

**Section 10.2. Amendments Requiring Funding Lender Consent.** The Governmental Lender shall not consent to any amendment, change or modification of the Borrower Loan Agreement or any other Borrower Loan Document or Funding Loan Document without the prior Written Consent of the Funding Lender; provided, however, that such prior Written Consent shall not be required with respect to any such amendment, change or modification undertaken by the Governmental Lender in order to preserve one or more of its Unassigned Rights. Governmental Lender agrees to provide the Funding Lender with prompt notification of any such amendments, modifications or changes not requiring the prior Written Consent of the Funding Lender.

**Section 10.1. Consents and Opinions.** No amendment to this Funding Loan Agreement or any other Funding Loan Document entered into under this Article X or any amendment, change or modification otherwise permitted under this Article X shall become effective unless and until (i) the Funding Lender shall have approved the same in writing in its sole discretion and (ii) the Funding Lender and the Governmental Lender shall have received, at the expense of the Borrower, a Tax Counsel No Adverse Effect Opinion and an Opinion of Counsel to the effect that any such proposed amendment is authorized and complies with the provisions of this Funding Loan Agreement and is a legal, valid and binding obligation of the parties thereto, subject to normal exceptions relating to bankruptcy, insolvency and equitable principles limitations. No modification or amendment of the terms of the Borrower Loan Agreement or the Borrower Note may be undertaken without the prior Written Consent of the Governmental Lender and the Funding Lender and the provision to the Funding Lender and the Governmental Lender, at the expense of the Borrower, of a Tax Counsel No Adverse Effect Opinion with regard to such proposed modification. Any consents required pursuant to this Article X from, or on behalf of, the Governmental Lender may be executed by an Authorized City Representative.

**ARTICLE XI MISCELLANEOUS**

**Section 11.1. Notices.**

(a) All notices, demands, requests and other communications required or permitted to be given by any provision of this Funding Loan Agreement shall be in writing and sent by first class, regular, registered or certified mail, commercial delivery service, overnight courier, telegraph, telex, telecopier or facsimile transmission, air or other courier, or hand delivery to the party to be notified addressed as follows.

If to the Governmental Lender: City of Chicago  
Department of Housing  
121 North LaSalle Street, 10<sup>th</sup> Floor  
Chicago, Illinois 60602  
Attention: Commissioner, Department of Housing  
Telephone: (312) 744-4190  
Facsimile: (312) 742-2271

and with a copy to: City of Chicago  
Office of Corporation Counsel  
121 North LaSalle Street, Room 600  
Chicago, Illinois 60602  
Attention: Finance and Economic Development Division  
Telephone: (312) 744-0200  
Facsimile: (312) 742-0277  
(refer to "Finance & Econ. Development Division" on cover sheet)

and with a copy to: City of Chicago  
Office of the City Comptroller's Office  
33 North LaSalle Street, Suite 600  
Chicago, Illinois 60602  
Attention: City Comptroller  
Telephone: (312) 744-7106  
Facsimile: (312) 742-6544

If to the Borrower: CARE Manor I L.P.  
c/o United for Better Living  
4540 West Washington Blvd.  
Chicago, Illinois 60624  
Attention: \_\_\_\_\_

and with a copy to: Miller & Ferguson  
954 West Washington Boulevard  
Suite 510  
Chicago, Illinois 60607  
Attention: Gregory Miller

and with a copy to: NEF Assignment Corporation  
10 South Riverside Plaza, Suite 1700  
Chicago, Illinois 60606

and with a copy to: Holland & Knight LLP  
10 St. James Avenue, 12<sup>th</sup> Floor  
Boston, Massachusetts 02116  
Attention: Sean B. Leonard

If to the Funding Lender: CIBC Bank USA  
120 South LaSalle Street  
Chicago, Illinois 60603  
Attention: Jim Scudder, Managing Director

with a copy to: Charity & Associates, P.C.  
20 North Clark Street  
Suite 3300  
Chicago, Illinois 60602  
Attention: Elvin Charity

If to the Note Purchaser: The Community Development Trust, LP  
1350 Broadway  
Suite 700  
New York, New York 10018  
Attention: Christopher Blair

with a copy to: Krooth & Altman LLP  
1850 M Street NW  
Suite 400  
Washington, DC 20036  
Attention: Andrew Rogers

Any such notice, demand, request or communication shall be deemed to have been given and received for all purposes under this Funding Loan Agreement: (i) three Business Days after the same is deposited in any official depository or receptacle of the United States Postal Service first class, or, if applicable, certified mail, return receipt requested, postage prepaid; (ii) on the date of transmission when delivered by telecopier or facsimile transmission, telex, telegraph or other telecommunication device, provided any telecopy or other electronic transmission received by any party after 4:00 p.m., local time, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day; (iii) on the next Business Day after the same is deposited with a nationally recognized overnight delivery service that guarantees overnight delivery; and (iv) on the date of actual delivery to such party by any other means; provided, however, if the day such notice, demand, request or communication shall be deemed to have been given and received as aforesaid is not a Business Day, such notice, demand, request or communication shall be deemed to have been given and received on the next Business Day; and provided further that notice to the Governmental Lender shall not be deemed to have been given until actually received by the Governmental Lender. Any facsimile signature by a Person on a document, notice, demand, request or communication required or permitted by this Funding Loan Agreement shall constitute a legal, valid and binding execution thereof by such Person.

Any party to this Funding Loan Agreement may change such party's address for the purpose of notice, demands, requests and communications required or permitted under this Funding Loan Agreement by providing written notice of such change of address to all of the parties by written notice as provided herein.

**Section 11.2. Term of Funding Loan Agreement.** This Funding Loan Agreement shall be in full force and effect until all payment obligations of the Governmental Lender hereunder have been paid in full and the Funding Loan has been retired or the payment thereof has been provided for (such payment or provision to be solely from the Security set forth in Article IV hereof as further provided in Section 8.8 hereof); except that on and after payment in full of the Governmental Lender Note, this Funding Loan Agreement shall be terminated, without further action by the parties hereto.

**Section 11.3. Successors and Assigns.** All covenants and agreements in this Funding Loan Agreement by the Governmental Lender shall bind its successors and assigns, whether so expressed or not.

**Section 11.4. Legal Holidays.** In any case in which the date of payment of any amount due hereunder or the date on which any other act is to be performed pursuant to this Funding Loan Agreement shall be a day that is not a Business Day, then payment of such amount or such act need not be made on such date but may be made on the next succeeding Business Day, and such later payment or such act shall have the same force and effect as if made on the date of payment or the date fixed for prepayment or the date fixed for such act, and no additional interest shall accrue for the period after such date and prior to the date of payment.

**Section 11.5. Governing Law.** This Funding Loan Agreement shall be governed by and shall be enforceable in accordance with the laws of the State.

**Section 11.6. Severability.** If any provision of this Funding Loan Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions shall not in any way be affected or impaired. In case any covenant, stipulation, obligation or agreement contained in the Governmental Lender Note or in this Funding Loan Agreement shall for any reason be held to be usurious or in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the Governmental Lender or the Funding Lender only to the full extent permitted by law. **Execution in Several Counterparts.** This Funding Loan Agreement may be contemporaneously executed in several counterparts, all of which shall constitute one and the same instrument and each of which shall be, and shall be deemed to be, an original.

**Section 11.8. Nonrecourse Obligation of the Borrower.** Except as otherwise provided in the Borrower Loan Agreement, any obligations of the Borrower under this Funding Loan Agreement are without recourse to the Borrower or to the Borrower's managers or members, as the case may be, and the provisions of Section 11.1 of the Borrower Loan Agreement are by this reference incorporated herein.

**Section 11.9. No Third Party Beneficiary.** The rights and obligations hereunder shall bind and inure to the benefit of the parties hereto and their respective successors and assigns and no rights hereunder shall be conferred on any other person as third party beneficiary or otherwise.

**Section 11.10. Electronic Transactions.** The transactions described in this Funding Loan Agreement may be conducted, and related documents and may be stored, by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 11.11. Reference Date.** This Funding Loan Agreement is dated for reference purposes only as of the first day of \_\_\_\_\_, 2024.

**IN WITNESS WHEREOF**, the Funding Lender and the Governmental Lender have caused this Funding Loan Agreement to be duly executed as of the date first written above.

**CIBC BANK USA,**  
as Funding Lender

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CITY OF CHICAGO**

By: \_\_\_\_\_  
Name: Jill Jaworski  
Title: Chief Financial Officer

[SEAL]

Attest:

By: \_\_\_\_\_  
Name: Andrea M. Valencia  
Title: City Clerk

Acknowledged this \_\_\_\_ day of \_\_\_\_\_,  
2024

**THE COMMUNITY DEVELOPMENT  
TRUST, LP, as Note Purchaser**

By: \_\_\_\_\_  
Michael Goerd, Vice President

(Sub)Exhibits "A" and "B" referred to in this Funding Loan Agreement read as follows:

(Sub)Exhibit "A".  
(To Funding Loan Agreement)

*Form Of Governmental Lender Note.*

**THIS NOTE MAY BE OWNED ONLY BY A PERMITTED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT, AND THE HOLDER HEREOF, BY THE ACCEPTANCE OF THIS FUNDING LOAN AGREEMENT (A) REPRESENTS THAT IT IS A PERMITTED TRANSFEREE AND (B) ACKNOWLEDGES THAT IT CAN ONLY TRANSFER THIS GOVERNMENTAL LENDER NOTE TO ANOTHER PERMITTED TRANSFEREE IN ACCORDANCE WITH THE TERMS OF THE FUNDING LOAN AGREEMENT.**

**CITY OF CHICAGO  
\$15,000,000 MULTIFAMILY MORTGAGE REVENUE NOTE  
2024 Series A  
(CARE Manor)**

DATED \_\_\_\_\_, 2024

not to exceed \$15,000,000

FOR VALUE RECEIVED, the undersigned CITY OF CHICAGO ("Obligor") promises to pay to the order of CIBC BANK USA ("Holder") the maximum principal sum of Twenty-Four Million One Hundred Thousand and no/100 Dollars \$15,000,000, on January 1, 2043, or earlier as provided herein, together with interest thereon at the rates, at the times and in the amounts provided below.

Obligor shall pay to the Holder on or before each date on which payment is due under that certain Funding Loan Agreement, dated as of \_\_\_\_\_ 1, 2024 (the "Funding Loan Agreement"), between Obligor and Holder, an amount in immediately available funds sufficient to pay the principal amount of and Prepayment Premium, if any, on the Funding Loan then due and payable, whether by maturity, acceleration, prepayment or otherwise. In the event that amounts held derived from proceeds of the Borrower Loan, condemnation awards or insurance proceeds or investment earnings thereon are applied to the payment of principal due on the Funding Loan in accordance with the Funding Loan Agreement, the principal amount due hereunder shall be reduced to the extent of the principal amount of the Funding Loan so paid. Capitalized terms not otherwise defined herein shall have the meaning assigned in the Funding Loan Agreement.

Obligor shall pay to the Holder on or before each date on which interest on the Funding Loan is payable interest on the unpaid balance hereof in an amount in immediately available funds sufficient to pay the interest on the Funding Loan then due and payable in the amounts and at the rate or rates set forth in the Funding Loan Agreement.

The Funding Loan and this Governmental Lender Note are pass-through obligations relating to a construction loan (the "Borrower Loan") made by Obligor from proceeds of the Funding Loan to CARE Manor I L.P., an Illinois limited partnership, as borrower (the "Borrower"), under that certain Borrower Loan Agreement, dated as of \_\_\_\_\_ 1, 2024 (as the same may be modified, amended or supplemented from time to time, the "Borrower Loan Agreement"), between the Obligor and the Borrower, evidenced by the Borrower Note (as defined in the Borrower Loan Agreement). Reference is made to the Borrower Loan Agreement and to the Borrower Note for complete payment and prepayment

terms of the Borrower Note, payments on which are passed-through under the Governmental Lender Note.

**This Governmental Lender Note is a limited obligation of the Obligor, payable solely from the Pledged Revenues and other funds and moneys and Security pledged and assigned under the Funding Loan Agreement. This Governmental Lender Note is not a general obligation of the Governmental Lender or a charge against its general credit or the general credit taxing powers of the State, the Governmental Lender, or any other political subdivision thereof, and shall never give rise to any pecuniary liability of the Governmental Lender, and neither the Governmental Lender, the State nor any other political subdivision thereof shall be liable for the payments of principal of and, premium, if any, and interest on this Governmental Lender Note, and the Governmental Lender Note is payable from no other source, but are special, limited obligations of the Governmental Lender, payable solely out of the security pledged hereunder and receipts of the Governmental Lender derived pursuant to this Funding Loan Agreement. No holder of this Governmental Lender Note or any interest therein has the right to compel any exercise of the taxing power of the State, the Governmental Lender or any other political subdivision thereof to pay the Governmental Lender Note or the interest or premium, if any, thereon.**

All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Funding Loan Agreement or in the Borrower Loan Agreement.

This Governmental Lender Note is subject to the express condition that at no time shall interest be payable on this Governmental Lender Note or the Funding Loan at a rate in excess of the Maximum Rate provided in the Funding Loan Agreement; and Obligor shall not be obligated or required to pay, nor shall the Holder be permitted to charge or collect, interest at a rate in excess of such Maximum Rate. If by the terms of this Governmental Lender Note or of the Funding Loan Agreement, Obligor is required to pay interest at a rate in excess of such Maximum Rate, the rate of interest hereunder or thereunder shall be deemed to be reduced immediately and automatically to such Maximum Rate, and any such excess payment previously made shall be immediately and automatically applied to the unpaid balance of the principal sum hereof and not to the payment of interest.

Amounts payable hereunder representing late payments, penalty payments or the like shall be payable to the extent allowed by law.

This Governmental Lender Note is subject to all of the terms, conditions, and provisions of the Funding Loan Agreement, including those respecting prepayment and the acceleration of maturity.

If there is an Event of Default under the Funding Loan Documents, then in any such event and subject to the requirements set forth in the Funding Loan Agreement, the Holder may declare the entire unpaid principal balance of this Governmental Lender Note and accrued interest, if any, due and payable at once. All of the covenants, conditions and agreements contained in the Funding Loan Documents are hereby made part of this Governmental Lender Note.

No delay or omission on the part of the Holder in exercising any remedy, right or option under this Governmental Lender Note or the Funding Loan Documents shall operate as a waiver of such remedy, right or option. In any event a waiver on any one occasion shall not be construed as a waiver or bar to any such remedy, right or option on a future occasion. The rights, remedies and options of the Holder under this Governmental Lender Note and the Funding Loan Documents are and shall be cumulative and are in addition to all of the rights, remedies and options of the Holder at law or in equity or under any other agreement.

Obligor shall pay all costs of collection on demand by the Holder, including without limitation, reasonable attorneys' fees and disbursements, which costs may be added to the indebtedness hereunder, together with interest thereon, to the extent allowed by law, as set forth in the Funding Loan Agreement.

This Governmental Lender Note may not be changed orally. Presentment for payment, notice of dishonor, protest and notice of protest are hereby waived. The acceptance by the Holder of any amount after the same is due shall not constitute a waiver of the right to require prompt payment, when due, of all other amounts due hereunder. The acceptance by the Holder of any sum in an amount less than the amount then due shall be deemed an acceptance on account only and upon condition that such acceptance shall not constitute a waiver of the obligation of Obligor to pay the entire sum then due, and Obligor's failure to pay such amount then due shall be and continue to be a default notwithstanding such acceptance of such amount on account, as aforesaid. Consent by the Holder to any action of Obligor which is subject to consent or approval of the Holder hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive actions.

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Governmental Lender Note or caused this Governmental Lender Note to be duly executed and delivered by its authorized representative as of the date first set forth above. The undersigned intends that this instrument shall be deemed to be signed and delivered as a sealed instrument.

**OBLIGOR:**

**CITY OF CHICAGO**

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

Name: Jill Jaworski

Title: Chief Financial Officer

[SEAL]

Attest:

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

Name: Andrea M. Valencia

Title: City Clerk

(Sub)Exhibit "B".  
(To Funding Loan Agreement)

*Form Of Required Transferee Representations.*

[ \_\_\_\_\_, 20\_\_ ]

The undersigned, as holder (the "Holder" or the "Funding Lender") of the not to exceed \$15,000,000 Multifamily Mortgage Revenue Construction Note, 2024 Series A (CARE Manor), dated as of the Closing Date (the "Governmental Lender Note") issued pursuant to an Ordinance adopted on \_\_\_\_\_, 2024 (the "Ordinance") by the City of Chicago (the "Governmental Lender") and under a Funding Loan Agreement dated as of \_\_\_\_\_ 1, 2024 (the "Funding Loan Agreement") between the Governmental Lender and Holder, as Funding Lender, hereby represents that:

1. The Funding Lender hereby acknowledges the execution and delivery of the Governmental Lender Note in the original aggregate principal amount of up to \$15,000,000.

2. The Funding Lender has authority to make the Funding Loan and to execute and deliver these representations and any other instrument and documents required to be executed by the Funding Lender in connection with the execution and delivery of the Governmental Lender Note.

3. The Holder has sufficient knowledge and experience in financial and business matters with respect to the evaluation of residential real estate developments such as the Project (as defined in the Funding Loan Agreement) to be able to evaluate the risk and merits of the investment represented by the Governmental Lender Note. We are able to bear the economic risks of such investment.

4. The Holder acknowledges that it has either been supplied with or been given access to information, including financial statements and other financial information, to which a reasonable lender would attach significance in making investment decisions, and the Holder has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Governmental Lender, the Project, the use of proceeds of the Governmental Lender Note, the Funding Loan Agreement and the Funding Loan and the security therefor so that, as a reasonable lender, the Holder has been able to make its decision to extend the Funding Loan [or an interest therein] and purchase the Governmental Lender Note [or an interest therein]. The Funding Lender understands that the Governmental Lender Note and the Borrower Loan Agreement are not registered under the Securities Act of 1933, as amended, and that such registration is not legally required as of the date hereof; and further understands that the Governmental Lender Note and the Borrower Loan Agreement (i) are not being registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state, (ii) will not be listed in any stock or other securities exchange, (iii) will not carry a rating from any rating service and (iv) will be delivered in a form which is not readily marketable. The Holder acknowledges that it has not relied upon the Governmental Lender for any information in connection with the Holder's purchase of the Governmental Lender Note [or an interest therein].

5. The Holder is an Approved Transferee (as defined in the Funding Loan Agreement).

6. The Holder acknowledges that it is purchasing [an interest in] the Governmental Lender Note for investment for its own account and not with a present view toward resale or the distribution thereof, in that we do not now intend to resell or otherwise dispose of all or any part of our interests in the Governmental Lender Note. Subject to paragraph 7 below, the Funding Lender acknowledges and agrees that the Governmental Lender Note, or interests therein, can be sold and subsequently transferred only to purchasers that execute and deliver to the Governmental Lender an representations from the transferee to

substantially the same effect as these required transferee representations or in such other form authorized under the Funding Loan Agreement with no revisions except as may be approved in writing by the Governmental Lender.

7. In the event any placement memorandum to be provided to any subsequent buyer or beneficial owner of such portion of the Governmental Lender Note will disclose information with respect to the Governmental Lender other than its name, location and type of political subdivision and general information with respect to the Funding Loan and Borrower Loan and related documents, the Holder will provide the Governmental Lender with a draft of such placement memorandum and the Governmental Lender shall have the right to approve any description of the Governmental Lender therein (which approval shall not be unreasonably withheld).

8. The Funding Lender understands that the Governmental Lender Note is a limited obligations of the Governmental Lender, payable solely from funds and moneys pledged and assigned under the Funding Loan Agreement, and that the liabilities and obligations of the Governmental Lender with respect to the Governmental Lender Note are expressly limited as set forth in the Funding Loan Agreement and related documents. The Funding Lender acknowledges that the Governmental Lender Note is not an indebtedness of the Governmental Lender or a charge against its general credit or the general credit taxing powers of the State, the Governmental Lender, or any other political subdivision thereof, and shall never give rise to any pecuniary liability of the Governmental Lender, and neither the Governmental Lender, the State nor any other political subdivision thereof shall be liable for the payments of principal of and, premium, if any, and interest on the Governmental Lender Note, and the Governmental Lender Note is payable from no other source, but are special, limited obligations of the Governmental Lender, payable solely out of the Security and receipts of the Governmental Lender derived pursuant to the Funding Loan Agreement and the Borrower Loan Agreement. The Funding Lender acknowledges that no holder of the Governmental Lender Note or any interest therein, has the right to compel any exercise of the taxing power of the State, the Governmental Lender or any other political subdivision thereof to pay the Governmental Lender Note or the interest or premium, if any, thereon.

9. Capitalized terms used herein and not otherwise defined have the meanings given such terms in the Funding Loan Agreement.

[Signature Page to Required Transferee Representations]

CIBC BANK USA, as Holder

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

*Exhibit "C".*  
(To Ordinance)

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**BORROWER LOAN AGREEMENT**

**Between**

**CITY OF CHICAGO,  
as Governmental Lender,**

**and**

**CARE MANOR I, LP  
an Illinois limited partnership,  
as Borrower**

**Dated as of \_\_\_\_\_ 1, 2024**

**Relating to:**

**\$15,000,000  
CITY OF CHICAGO  
MULTIFAMILY MORTGAGE REVENUE NOTE  
2024 Series A  
(CARE Manor)**

**(Funding Loan originated by CIBC BANK USA,  
as Funding Lender)**

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The interest of the City of Chicago (the "Governmental Lender") in this Borrower Loan Agreement (except for certain rights described herein) has been pledged and assigned to CIBC Bank USA, as Funding Lender under that certain Funding Loan Agreement, of even date herewith, by and between the Governmental Lender and the Funding Lenders, under which the Funding Lenders are originating a loan to the Governmental Lender the proceeds of which are to be used to fund the Borrower Loan made under this Borrower Loan Agreement.

**BORROWER LOAN AGREEMENT**

**THIS BORROWER LOAN AGREEMENT** (this "Borrower Loan Agreement") is entered into as of the first day of \_\_\_\_\_ 1, 2024, between the **CITY OF CHICAGO**, a municipality and home rule unit of local government duly organized and validly existing under the constitution and laws of the State of Illinois (together with its successors and assigns, the "Governmental Lender"), and **CARE MANOR I L.P.**, an Illinois limited partnership (together with its successors and assigns, the "Borrower").

**WITNESSETH:****RECITALS**

**WHEREAS**, the Governmental Lender has been duly created and organized pursuant to and in accordance with the provisions of Article VII, Section 6 of the 1970 Constitution of the State of Illinois, for the purpose of providing a means of financing the costs of residential ownership and development that will provide decent, safe and sanitary housing for persons of low and moderate income at prices or rentals they can afford; and

**WHEREAS**, the Governmental Lender is authorized: (a) to make loans to any person to provide financing for rental residential developments located within the jurisdiction of the Governmental Lender and intended to be occupied in part by persons of low and moderate income, as determined by the Governmental Lender; (b) to incur indebtedness for the purpose of obtaining moneys to make such loans and provide such financing, to establish necessary reserve funds and to pay administrative costs and other costs incurred in connection with the incurrence of such indebtedness of the Governmental Lender; and (c) to pledge all or any part of the revenues, receipts or resources of the Governmental Lender, including the revenues and receipts to be received by the Governmental Lender from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans or other property of the Governmental Lender in order to secure the payment of the principal or redemption price of and interest on such indebtedness of the Governmental Lender; and

**WHEREAS**, the Borrower has applied to the Governmental Lender for a loan (the "Borrower Loan") for the acquisition, construction, development, and equipping of one newly-constructed multifamily, residential rental building located in the City of Chicago, Cook County, Illinois, known or to be known as CARE Manor, located at 4531-4555 West Washington Boulevard, consisting of a 3-story building with 44 units including 1 one-bedroom, 29 two-bedroom units, 14 three-bedroom units, all of which will be rented to households earning up to 60% of area median income, 21 parking spaces for residents, and related amenities including on-site laundry facilities (the "Project"); and

**WHEREAS**, the Borrower's repayment obligations under this Borrower Loan Agreement are evidenced by the Borrower Note, as defined herein; and

**WHEREAS**, the Borrower has requested the Governmental Lender to enter into that certain Funding Loan Agreement, of even date herewith (the "Funding Loan Agreement"), by and among the Governmental Lender and CIBC Bank USA, as Funding Lender under which the Funding Lender will make a funding loan (collectively, the "Funding Loan") to the Governmental Lender, the proceeds of which will be loaned (the "Borrower Loan") under this Borrower Loan Agreement to the Borrower to finance the acquisition, construction, development, equipping and/or operation of the Project; and;

**WHEREAS**, the Borrower Loans will be secured by that certain Mortgages, Security Agreement, Assignment of Leases and Rents and Fixture Filing (as amended, restated and/or supplemented from time

to time, the "Security Instruments") of even date herewith, made by the Borrower to the benefit of the Governmental Lender and assigned by the Governmental Lender to the Funding Lender, encumbering the Project, and will be advanced to Borrower by the Funding Lender, as agent for the Governmental Lender, pursuant to this Borrower Loan Agreement and the Construction Funding Agreement.

**NOW, THEREFORE**, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the parties hereto do hereby agree as follows:

**ARTICLE I  
DEFINITIONS; PRINCIPLES OF CONSTRUCTION**

**Section 1.1. Specific Definitions.** For all purposes of this Borrower Loan Agreement, except as otherwise expressly provided or unless the context otherwise requires:

Unless specifically defined herein, all capitalized terms shall have the meanings ascribed thereto in the Security Instrument or, if not defined in the Security Instrument, in the Funding Loan Agreement.

All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with GAAP.

All references in this instrument to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and subdivisions of this instrument as originally executed.

All references in this instrument to a separate instrument are to such separate instrument as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

Unless otherwise specified, (i) all references to sections and schedules are to those in this Borrower Loan Agreement, (ii) the words "hereof," "herein" and "hereunder" and words of similar import refer to this Borrower Loan Agreement as a whole and not to any particular provision, (iii) all definitions are equally applicable to the singular and plural forms of the terms defined and (iv) the word "including" means "including but not limited to."

**Section 1.2. Definitions.** The following terms, when used in this Borrower Loan Agreement (including when used in the above recitals), shall have the following meanings:

**"Act of Bankruptcy"** shall mean the filing of a petition in bankruptcy (or any other commencement of a bankruptcy or similar proceeding) under any applicable bankruptcy, insolvency, reorganization, or similar law, now or hereafter in effect; provided that, in the case of an involuntary proceeding, such proceeding is not dismissed within ninety (90) days after the commencement thereof.

**"ADA"** shall have the meaning set forth in Section 4.1.38 hereof.

**"Additional Borrower Payments"** shall mean the payments payable pursuant to Section 2.5 (Additional Borrower Payments), Section 2.6 (Overdue Payments; Payments in Default), Section 5.14 (Expenses), Section [ ] of the Construction Funding Agreement (Borrower Loan in Balance), Section [ ] of the Construction Funding Agreement (Mandatory Payments of Borrower Loan).

**"Agreement of Environmental Indemnification"** shall mean any Environmental Indemnity Agreement, executed by the Borrower for the benefit of the Funding Lender and any lawful holder, owner or pledgee of the Borrower Note from time to time.

**“Architect”** shall mean any licensed architect, space planner or design professional that Borrower may engage from time to time, with the approval of Funding Lender, to design any portion of the Improvements, including the preparation of the Plans and Specifications.

**“Architect’s Agreement”** means any agreement that Borrower and any Architect from time to time may execute pursuant to which Borrower engages such Architect to design any portion of the Improvements, including the preparation of the Plans and Specifications, as approved by Funding Lender.

**“Authorized Borrower Representative”** shall mean a person at the time designated and authorized to act on behalf of the Borrower by a written certificate furnished to the Governmental Lender, the Funding Lender and the Servicer and containing the specimen signature of such person and signed on behalf of the Borrower by its Borrower Controlling Entity which certificate may designate one or more alternates.

**“Bankruptcy Code”** shall mean the United States Bankruptcy Reform Act of 1978, as amended from time to time, or any substitute or replacement legislation.

**“Bankruptcy Proceeding”** shall have the meaning set forth in Section 4.1.8 hereof.

**“Beneficiary Parties”** shall mean, collectively, the Funding Lender and the Governmental Lender.

**“Borrower”** shall have the meaning set forth in the recitals to this Borrower Loan Agreement.

**“Borrower Affiliate”** means, as to the Borrower, its General Partner or the Guarantor, (i) any entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of Borrower, its General Partner or the Guarantor, (ii) any corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by the Borrower, its General Partner or the Guarantor, (iii) any partner, shareholder or, if a limited liability company, member of Borrower, its General Partner or the Guarantor, or (iv) any other person that is related by blood or marriage to the Borrower, its General Partner or the Guarantor (to the extent any of the Borrower, its General Partner or the Guarantor is a natural person).

**“Borrower Controlling Entity”** shall mean, if the Borrower is a partnership, any general partner or managing partner of the Borrower, or if the Borrower is a limited liability company, the General Partner or managing member of the Borrower, or if the Borrower is a not for profit corporation, the shareholders thereof.

**“Borrower Deferred Equity”** shall mean the Equity Contributions to be made by the Equity Investor to Borrower pursuant to (and subject to the terms, conditions precedent, and adjustments provided for therein) the Partnership Agreement other than Borrower Initial Equity.

**“Borrower Initial Equity”** shall mean an initial installment of the Equity Contributions made to Borrower by the Equity Investor to be made on or prior to the Closing Date.

**“Borrower Loan”** shall mean the mortgage loan made by the Governmental Lender to the Borrower pursuant to this Borrower Loan Agreement, in the maximum principal amount of the Borrower Loan Amount, as evidenced by the Borrower Note.

**“Borrower Loan Agreement”** shall mean this Borrower Loan Agreement.

**"Borrower Loan Amount"** shall mean not to exceed \$15,000,000, the original maximum aggregate principal amount of the Borrower Note.

**"Borrower Loan Documents"** shall mean this Borrower Loan Agreement, the Construction Funding Agreement, the Borrower Note, the Security Instrument, and all other documents or agreements evidencing or relating to the Borrower Loan.

**"Borrower Loan Payment Date"** shall mean (i) the date upon which regularly scheduled Borrower Loan Payments are due pursuant to the Borrower Note, or (ii) any other date on which the Borrower Note is prepaid or paid, whether at the scheduled maturity or upon the acceleration of the maturity thereof.

**"Borrower Loan Payments"** shall mean the monthly loan payments payable pursuant to the Borrower Note.

**"Borrower Loan Proceeds"** shall mean proceeds of the Borrower Loan, to be disbursed in accordance with Section 2.10 of this Borrower Loan Agreement and the Construction Funding Agreement.

**"Borrower Note"** shall mean that certain Promissory Note dated as of the Closing Date in the original maximum principal amount of not to exceed \$15,000,000 made by Borrower and payable to Governmental Lender, as endorsed and initially assigned to the Funding Lender, with the expectation that the Borrower Note shall be transferred to the Note Purchaser on or after the Conversion Date, pursuant to the Forward Bond Purchase Agreement and the conditions and requirements of the Funding Loan Documents, as it may be amended, supplemented or replaced from time to time.

**"Borrower Payment Obligations"** shall mean all payment obligations of the Borrower under the Borrower Loan Documents, including, but not limited to, the Borrower Loan Payments and the Additional Borrower Payments.

**"Business Day"** shall mean any day other than (i) a Saturday or Sunday, or (ii) a day on which federally insured depository institutions in New York, New York, Chicago, Illinois or the cities in which the offices of the Funding Lender are located are authorized or obligated by law, regulation, governmental decree or executive order to be closed.

**"Calendar Month"** shall mean each of the twelve (12) calendar months of the year.

**"CC&R's"** shall mean any covenants, conditions, restrictions, maintenance agreements or reciprocal easement agreements affecting the Project, including, without limitation, the Regulatory Agreement and the Redevelopment Agreement.

**"City"** shall mean the City of Chicago, Illinois.

**"Closing Date"** shall mean \_\_\_\_\_, 2024, the date that the initial Borrower Loan Proceeds are disbursed hereunder.

**"Code"** shall mean the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

**“Collateral”** shall mean all collateral described in (i) this Borrower Loan Agreement (including, without limitation, all property in which the Funding Lender is granted a security interest pursuant to any provision of this Borrower Loan Agreement), (ii) the Security Instrument, or (iii) any other security document executed and delivered in connection with the Borrower Loan, which Collateral shall include the Project, all of which collateral is pledged and assigned to the respective Funding Lenders under the Funding Loan Agreement to secure the Funding Loan.

**“Completion”** shall have the meaning set forth in Section 5.25.

**“Completion Date”** shall mean \_\_\_\_\_, 2026.

**“Computation Date”** shall have the meaning ascribed thereto in Section 1.148-3 of the Regulations.

**“Condemnation”** shall mean any action or proceeding or notice relating to any proposed or actual condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Project, whether direct or indirect.

**“Construction Consultant”** shall mean a third-party architect or engineer selected and retained by Funding Lender, at the cost and expense of Borrower, to monitor the progress of construction of the Project and to inspect the Improvements to confirm compliance with this Borrower Loan Agreement.

**“Construction Contract”** shall mean any agreement that Borrower and any Contractor from time to time may execute pursuant to which Borrower engages the Contractor to construct any portion of the Improvements, as approved by the Funding Lender.

**“Construction Escrow Agreement”** shall mean that certain Construction Escrow Agreement, dated \_\_\_\_\_, 2024, among the Title Company named therein, in its capacity as escrow agent, Governmental Lender, the Funding Lender, certain subordinate lenders named therein, and Borrower, as such agreement may be amended, modified, supplemented and replaced from time to time.

**“Construction Funding Agreement”** means that certain Construction Funding Agreement of even date herewith, between the Funding Lender, as agent for the Governmental Lender, and Borrower, pursuant to which the Borrower Loan will be advanced by the Funding Lender (or the Servicer on its behalf), as agent of the Governmental Lender, to the Borrower and setting forth certain provisions relating to disbursement of the Borrower Loan during construction, insurance and other matters, as such agreement may be amended, modified, supplemented and replaced from time to time.

**“Construction Schedule”** shall mean a schedule of construction progress with the anticipated commencement and completion dates of each phase of construction and the anticipated date and amounts of each Disbursement for the same, as approved by the Funding Lender, as assignee of the Governmental Lender.

**“Contingency Draw-Down Agreement”** means the Contingency Draw-Down Agreement of even date herewith, between the Funding Lender and the Borrower relating to possible conversion of the Funding Loan from a draw down loan to a fully funded loan.

**“Continuing Disclosure Agreement”** shall mean that certain Continuing Disclosure Agreement of even date herewith, between the Borrower and the Funding Lender (as the same may be replaced by a Continuing Disclosure Agreement between the Borrower and the Note Purchaser), pursuant to which the

Borrower agrees to provide certain information with respect to the Project, the Borrower and the Funding Loan subsequent to the Closing Date, as amended, supplemented or restated from time to time.

“**Contractor**” shall mean any licensed general contractor or subcontractor that Borrower may directly engage from time to time, with the approval of the Funding Lender, to construct any portion of the Improvements.

“**Contractual Obligation**” shall mean, for any Person, any debt or equity security issued by that Person, and any indenture, mortgage, deed of trust, contract, undertaking, instrument or agreement (written or oral) to which such Person is a party or by which it is bound, or to which it or any of its assets is subject.

“**Conversion**” shall mean the mutual determination by the Funding Lender and the Note Purchaser that the Conversion Conditions have been satisfied in accordance with the provisions of the forward Bond Purchaser Agreement, that the conditions to transfer set forth in Section 2.4 of the Funding Loan Agreement have been satisfied and the Note Purchaser has purchased the Governmental Lender Note from the Funding Lender, after which event Note Purchaser shall be recognized for all purposes under this Agreement and the other Bond Loan Documents as the Funding Lender. Conversion must occur no later than the Outside Conversion Date, as may be extended to the Extended Outside Conversion Date pursuant to the Construction Funding Agreement.

“**Conversion Conditions**” shall have the meaning ascribed thereto in the Forward Bond Purchase Agreement.

“**Conversion Date**” shall mean the date for the consummation of the purchase by Note Purchaser of the Governmental Lender Note to be designated by Note Purchaser once the Conversion Conditions have been satisfied, the determination of the Permanent Loan Purchase Price has been made and any loan balancing payments in accordance with Section 3.3 hereof and the Construction Funding Agreement have been made. The Conversion Date must occur no later than the Outside Conversion Date, as may be extended to the Extended Outside Conversion Date pursuant to the Construction Funding Agreement.

“**Cost Breakdown**” shall mean the schedule of costs for the Improvements, as set forth in the Construction Funding Agreement, and as the same may be amended from time to time with Funding Lender’s consent.

“**Costs of Funding**” shall mean the Governmental Lender’s Closing Fee and the fees, costs, expenses and other charges incurred in connection with the funding of the Borrower Loan and the Funding Loans, the negotiation and preparation of this Borrower Loan Agreement and each of the other Borrower Loan Documents and Funding Loan Documents and shall include, but shall not be limited to, the following: (i) counsel fees (including but not limited to Tax Counsel, counsel to the Governmental Lender, Borrower’s counsel, and Funding Lenders’ counsel); (ii) financial advisor fees incurred in connection with the closing of the Borrower Loan and the Funding Loan; (iii) certifying and authenticating agent fees and expenses related to funding of the Funding Loan; (iv) printing costs (for any preliminary and final offering materials relating to the Funding Loan); (v) any recording fees; (vi) any additional fees charged by the Governmental Lender; and (vii) costs incurred in connection with the required public notices generally and costs of the public hearing.

“**Costs of Funding Deposit**” shall mean the amount required to be deposited by the Borrower with the Title Company (or a separate escrow company, if applicable) to pay Costs of Funding in connection with the closing of the Borrower Loan and the Funding Loan on the Closing Date.

**“Cost of Improvements”** shall mean the costs for the Improvements, as set forth on the Cost Breakdown.

**“County”** shall mean Cook County, Illinois.

**“Date of Disbursement”** shall mean the date of a Disbursement.

**“Day” or “Days”** shall mean calendar days unless expressly stated to be Business Days.

**“Debt”** shall mean, as to any Person, any of such Person’s liabilities, including all indebtedness (whether recourse and nonrecourse, short term and long term, direct and contingent), all committed and unfunded liabilities, and all unfunded liabilities, that would appear upon a balance sheet of such Person prepared in accordance with GAAP.

**“Default Rate”** shall have the meaning given to that term in the Borrower Note.

**“Determination of Taxability”** shall mean (i) a determination by the Commissioner or any District Director of the Internal Revenue Service, (ii) a private ruling or Technical Advice Memorandum concerning the Governmental Lender Note issued by the National Office of the Internal Revenue Service in which Governmental Lender and Borrower were afforded the opportunity to participate, (iii) a determination by any court of competent jurisdiction, (iv) the enactment of legislation or (v) receipt by the Funding Lender, at the request of the Governmental Lender, the Borrower or the Funding Lender, of an opinion of Tax Counsel, in each case to the effect that the interest on the Governmental Lender Note is includable in gross income for federal income tax purposes of any holder or any former holder of all or a portion of the Governmental Lender Note, other than a holder who is a “substantial user” of the Project or a “related person” (as such terms are defined in Section 147(a) of the Code) to a “substantial user”; provided, however, that no such Determination of Taxability under clause (i) or (iii) shall be deemed to have occurred if the Governmental Lender (at the sole expense of the Borrower), the Funding Lender (at the sole expense of the Borrower) or the Borrower is contesting such determination, has elected to contest such determination in good faith and is proceeding with all applicable dispatch to prosecute such contest until the earliest of (a) a final determination from which no appeal may be taken with respect to such determination, (b) abandonment of such appeal by the Governmental Lender or the Borrower, as the case may be, or (c) one year from the date of initial determination.

**“Developer Fee”** shall mean the fees and/or compensation payable to United for Better Living Inc. NFP in the amount of \$ \_\_\_\_\_, which fees and/or compensation shall not be paid prior to the Conversion Date, of which \$ \_\_\_\_\_ will be paid at Closing, except as otherwise permitted pursuant to Section 6.13(b).

**“Disbursement”** means a disbursement of Borrower Loan Proceeds and Other Borrower Moneys pursuant to this Borrower Loan Agreement and the Construction Funding Agreement.

**“Engineer”** shall mean any licensed civic, structural, mechanical, electrical, soils, environmental or other engineer that Borrower may engage from time to time, with the approval of the Funding Lender, to perform any engineering services with respect to any portion of the Improvements.

**“Engineer’s Contract”** shall mean any agreement that Borrower and any Engineer from time to time may execute pursuant to which Borrower engages such Engineer to perform any engineering services with respect to any portion of the Improvements, as approved by Funding Lender.

**"Equipment"** shall have the meaning given to the term "Personal Property" or "Personalty" in any Security Instrument.

**"Equity Contributions"** shall mean the equity to be contributed by, or on behalf of, the Equity Investor to Borrower, in accordance with and subject to the terms of, and the conditions precedent and adjustments provided for in, the Partnership Agreement.

**"Equity Investor"** shall mean NEF Assignment Corporation, an Illinois not-for-profit corporation, as nominee, and its successors and assigns.

**"ERISA"** shall mean the Employment Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated hereunder.

**"ERISA Affiliate"** shall mean all members of a controlled group of corporations and all trades and business (whether or not incorporated) under common control and all other entities which, together with the Borrower, are treated as a single employer under any or all of Section 414(b), (c), (m) or (o) of the Code.

**"Event of Default"** shall mean any Event of Default set forth in Section 8.1 of this Borrower Loan Agreement. An Event of Default shall "exist" if a Potential Default shall have occurred and be continuing beyond any applicable cure period.

**"Exchange Act"** shall mean the Securities Exchange Act of 1934, as amended.

**"Expenses of the Project"** shall mean, for any period, the current expenses, paid or accrued, for the operation, maintenance and current repair of the Project, as calculated in accordance with GAAP, and shall include, without limiting the generality of the foregoing, salaries, wages, employee benefits, cost of materials and supplies, costs of routine repairs, renewals, replacements and alterations occurring in the usual course of business, costs and expenses properly designated as capital expenditures (e.g., repairs which would not be payable from amounts on deposit in a repair and replacement fund held pursuant to the Borrower Loan Documents), a management fee (however characterized) not to exceed 6.0% of Gross Income, costs of billings and collections, costs of insurance, and costs of audits. Expenses of the Project shall not include any payments, however characterized, on account of any subordinate financing in respect of the Project or other indebtedness, allowance for depreciation, amortization or other non-cash items, gains and losses or prepaid expenses not customarily prepaid.

**"Extended Outside Conversion Date"** shall mean the earlier to occur of (a) \_\_\_\_\_, 202\_\_ and (b) the [Termination Date], as defined in the Forward Bond Purchase Agreement.

**"Fair Market Value"** shall mean the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) the investment is an interest in any commingled investment fund in which the

Governmental Lender and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of investment.

**"Fitch"** shall mean Fitch, Inc.

**"Funding Lender"** shall mean the Construction Funding Lender and the Permanent Funding Lender, respectively.

**"Forward Bond Purchase Agreement"** shall have the meaning assigned to such term in the Funding Loan Agreement.

**"Funding Lender"** shall mean CIBC Bank USA, an Illinois state-chartered bank, and any successor holder of the Governmental Lender Note.

**"Funding Loan"** means the original Funding Loan in the original maximum principal amount of \$15,000,000 made by the Funding Lender to Governmental Lender under the Funding Loan Agreement, the proceeds of which are used by the Governmental Lender to make the Borrower Loan.

**"Funding Loan Agreement"** means the Funding Loan Agreement, of even date herewith, between the Governmental Lender and the Funding Lender, as it may from time to time be supplemented, modified or amended by one or more amendments or other instruments supplemental thereto entered into pursuant to the applicable provisions thereof.

**"Funding Loan Documents"** shall have the meaning given to that term in the Funding Loan Agreement.

**"GAAP"** shall mean generally accepted accounting principles as in effect on the date of the application thereof and consistently applied throughout the periods covered by the applicable financial statements.

**"Governmental Authority"** shall mean (i) any governmental municipality or political subdivision thereof, (ii) any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality or public body, or (iii) any court, administrative tribunal or public utility, agency, commission, office or authority of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise), now or hereafter in existence.

**"Governmental Lender"** shall have the meaning set forth in the recitals to this Borrower Loan Agreement.

**"Governmental Lender Note"** shall mean that certain City of Chicago Multifamily Housing Revenue Note, 2024 Series A (CARE Manor), dated the Closing Date in the original maximum principal amount of \$15,000,000, made by the Governmental Lender and payable to the order of the Funding Lender, as it may be amended, supplemented or replaced from time to time.

**"Governmental Lender's Closing Fee"** shall mean an amount equal to 1.5% of the original principal amount of the Governmental Lender Note. The Governmental Lender's Closing Fee is payable to the Governmental Lender on the Closing Date, pursuant to Section 2.3(c)(iii) hereof.

**"Gross Income"** shall mean all receipts, revenues, income and other moneys received or collected by or on behalf of Borrower and derived from the ownership or operation of the Project, if any, and all rights to receive the same, whether in the form of accounts, accounts receivable, contract rights or

other rights, and the proceeds of such rights, and whether now owned or held or hereafter coming into existence and proceeds received upon the foreclosure sale of the Project. Gross Income shall not include loan proceeds, equity or capital contributions, or tenant security deposits being held by Borrower in accordance with applicable law.

**“Gross Proceeds”** shall mean, without duplication, the aggregate of:

(a) the net amount (after payment of all expenses of originating the Funding Loan) of Funding Loan proceeds received by the Governmental Lender as a result of the origination of the Funding Loan;

(b) all amounts received by the Governmental Lender as a result of the investment of the Funding Loan proceeds;

(c) any amounts held in any fund or account to the extent that the Governmental Lender reasonably expects to use the amounts in such fund to pay any portion of the Funding Loan; and

(d) any securities or obligations pledged by the Governmental Lender or by the Borrower as security for the payment of any portion of the Funding Loan.

[**“Guarantor”** shall mean United for Better Living Inc. NFP, an Illinois not-for-profit corporation and any other person or entity which may hereafter become a guarantor of any of the Borrower’s obligations under the Borrower Loan.]

**“Guaranty”** shall mean, collectively, (i) the Guaranty of Payment, dated as of the Closing Date, by the Guarantor for the benefit of the Funding Lender, and (ii) the Guaranty of Completion, dated as of the Closing Date, by the Guarantor for the benefit of the Funding Lender.

**“Improvements”** shall mean the multifamily residential Project, all of which will be income-restricted, together with related common areas, to be acquired and constructed upon the Land and known as CARE Manor Apartments, and all other buildings, structures, fixtures, wiring, systems, equipment and other improvements and personal property to be constructed and/or installed at or on the Land in accordance with the Cost Breakdown and the Plans and Specifications.

**“Indemnified Party”** shall have the meaning set forth in Section 5.15 hereof.

**“Installment Computation Date”** shall mean any Computation Date other than the first Computation Date or the final Computation Date.

**“Interest Rate”** shall mean the rate of interest accruing on the Borrower Loan pursuant to the Borrower Note.

**“Interim Phase Amount”** shall mean \$15,000,000.

**“Land”** means the real property described on Exhibit A to the Security Instrument.

**“Late Charge”** shall mean the amount due and payable as a late charge on overdue payments under the Borrower Note, as provided in Section [ ] of the Borrower Note and Section 2.5 hereof.

**“Legal Action”** shall mean an action, suit, investigation, inquiry, proceeding or arbitration at law or in equity or before or by any foreign or domestic court, arbitrator or other Governmental Authority.

**“Legal Requirements”** shall mean statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting all or part of the Project or any property (including the Project) or the construction, use, alteration or operation thereof, whether now or hereafter enacted and in force, and all permits, licenses and authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instrument, either of record or known to the Borrower, at any time in force affecting all or part of the Project, including any that may (i) require repairs, modifications or alterations in or to all or part of the Project, or (ii) in any way limit the use and enjoyment thereof.

**“Liabilities”** shall have the meaning set forth in Section 5.15 hereof.

**“Licenses”** shall have the meaning set forth in Section 4.1.22 hereof.

**“Lien”** shall mean any interest, or claim thereof, in the Project securing an obligation owed to, or a claim by, any Person other than the owner of the Project, whether such interest is based on common law, statute or contract, including the lien or security interest arising from a deed of trust, mortgage, deed to secure debt, assignment, encumbrance, pledge, security agreement, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term “Lien” shall include reservations, exceptions, encroachments, easements, rights of way, covenants, conditions, restrictions, leases and other title exceptions and encumbrances affecting the Project.

**“Management Agreement”** shall mean the Management Agreement between the Borrower and the Property Manager, pursuant to which the Property Manager is to manage the Project, as same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

**“Material Adverse Change”** means any set of circumstances or events which (a) has or could reasonably be expected to have any material adverse effect whatsoever upon the validity or enforceability of this Borrower Loan Agreement or any other Borrower Loan Document; (b) is or could reasonably be expected to be material and adverse to the business, properties, assets, financial condition, results of operations or prospects of the Borrower, General Partner, Guarantor or the Mortgaged Property; (c) could reasonably be expected to impair materially the ability of the Borrower, General Partner, or Guarantor to duly and punctually pay or perform any of their respective obligations under any of the Borrower Loan Documents to which they are a party; or (d) impairs materially or could reasonably be expected to impair materially any rights of or benefits available to the Governmental Lender under this Borrower Loan Agreement or any other Borrower Loan Document, including, without limitation, the ability of Governmental Lender or, upon the assignment of the Borrower Loan to it, of the Funding Lenders, to the extent permitted, to enforce its legal remedies pursuant to this Borrower Loan Agreement or any other Borrower Loan Document.

**“Moody’s”** shall mean Moody’s Investors Service, Inc., or its successor.

**“Mortgaged Property”** shall have the meaning given to that term in the Security Instrument.

**“Net Operating Income”** shall mean: (i) the Gross Income, less (ii) the Expenses of the Project.

**“Nonpurpose Investment”** shall mean any investment property (as defined in Section 148(b) of the Code) that is acquired with the Gross Proceeds of the Funding Loan and which is not acquired to carry out the governmental purpose of the Funding Loan.

**“Note Purchaser”** means The Community Development Trust, LP, Inc., a Delaware limited partnership.

**“Ongoing Governmental Lender Fee”** shall mean (i) the bond issuer closing fee of \$ \_\_\_\_\_ due at closing, a \$ \_\_\_\_\_ LIHTC issuer fee due at closing, \$ \_\_\_\_\_ due at closing for bond legal reserve fee, and (ii) the semi-annual fee of the Governmental Lender in the amount of 15 basis points (.0015) of the total outstanding bond amount, accruing monthly but paid semi-annually. The fee due on an semi-annual basis is payable annually in advance by the Borrower to the Governmental Lender on each January 1 and June 1, commencing on the Closing Date so long as any parties of the Funding Loan is outstanding.

**“Other Borrower Moneys”** shall mean monies of Borrower other than Borrower Loan Proceeds and includes, but is not limited to, the Subordinate Debt, Net Operating Income, the Borrower’s Equity Contributions and any other funds contributed by or loaned to the Borrower for application to the Costs of the Improvements or other costs associated with the Project.

**“Other Charges”** shall mean all maintenance charges, impositions other than Taxes, and any other charges, including vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Project, now or hereafter levied or assessed or imposed against the Project or any part thereof.

**“Outside Conversion Date”** shall mean the earlier to occur of (a) \_\_\_\_\_, 2026 and (b) the [Termination Date] defined in the Forward Bond Purchase Agreement.

**“Partnership Agreement”** shall mean that certain Amended and Restated Limited Partnership Agreement of the Borrower with respect to the Project, dated as of \_\_\_\_\_, 2024, as the same may be amended, restated or modified in accordance with its terms.

**“Patriot Act”** shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, as the same may be amended from time to time, and corresponding provisions of future laws.

**“Patriot Act Offense”** shall have the meaning set forth in Section 4.1.48 hereof.

**“Permanent Loan Continuing Covenants Agreement”** means that certain Continuing Covenants Agreement to be entered into by and between Borrower and Note Purchaser contemporaneously with Conversion.

**“Permanent Loan Purchase Price”** shall mean the principal amount of the Borrower Loan subject to purchase by the Note Purchaser following the calculation provided for in the Forward Bond Purchase Agreement and as agreed upon by the Funding Lender and the Note Purchaser in accordance with the Forward Bond Purchase Agreement.

**“Permitted Encumbrances”** shall have the meaning given to that term in the Security Instrument.

**“Permitted Lease”** shall mean a lease and occupancy agreement pursuant to the form approved by Funding Lender, to a residential tenant in compliance with the Legal Requirements, providing for an initial term of not less than six (6) months nor more than two (2) years.

**“Person”** shall mean a natural person, a partnership, a joint venture, an unincorporated association, a limited liability company, a corporation, a trust, any other legal entity, or any Governmental Authority.

**“Plan”** shall mean (i) an employee benefit or other plan established or maintained by the Borrower or any ERISA Affiliate or to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions and (ii) which is covered by Title IV of ERISA or Section 302 of ERISA or Section 412 of the Code.

**“Plans and Specifications”** shall mean the plans and specifications for the construction, as the case may be, of the Project approved by Funding Lender.

**“Potential Default”** shall mean the occurrence of an event which, under this Borrower Loan Agreement or any other Borrower Loan Document, would, but for the giving of notice of passage of time, be an Event of Default.

**“Prepayment Premium”** shall mean any premium payable by the Borrower pursuant to the Borrower Loan Documents in connection with a prepayment of the Borrower Note (including any prepayment premium as set forth in the Borrower Note).

**“Prohibited Transfer”** shall have the meaning given to that term in the Construction Funding Agreement.

**“Project”** shall mean the Mortgaged Property (as defined in any Security Instrument) and Improvements thereon owned by the Borrower and encumbered by the Security Instruments, together with all rights pertaining to such real property and Improvements, as more particularly described in the Granting Clauses of any Security Instrument and referred to therein as the “Mortgaged Property.”

**“Project Agreements and Licenses”** shall mean any and all Construction Contracts, Engineer’s Contracts and Management Agreements, and all other rights, licenses, permits, franchises, authorizations, approvals and agreements relating to use, occupancy, operation or leasing of the Project or the Mortgaged Property.

**“Property Manager”** shall mean the management company to be employed by the Borrower and approved by the Funding Lender in accordance with the terms of the Construction Funding Agreement, this Borrower Loan Agreement or any of the other Borrower Loan Documents.

**“Provided Information”** shall have the meaning set forth in Section 9.1.1 (a) hereof.

**“Qualified Project Costs”** shall mean costs paid with respect to the Project that meet each of the following requirements: (i) the costs are properly chargeable to capital account (or would be so chargeable with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs) in accordance with general federal income tax principles and in accordance with Section 1.103-8(a)(1) of the Regulations, provided, however, that only such portion of the interest accrued during construction of the Project shall be eligible to be a Qualified Project Cost as bears the same ratio to all such interest as the Qualified Project Costs bear to all costs of the acquisition and construction of the Project; and provided further that interest accruing after the date of completion of the Project shall not be a Qualified Project Cost; and provided still further that if any portion of the Project is being constructed by an Affiliate (whether as general contractor or a subcontractor), Qualified Project Costs shall include only (A) the actual out of pocket costs incurred by such affiliate in constructing the Project (or any portion thereof), (B) any reasonable fees for supervisory services actually rendered by such affiliate, and

(C) any overhead expenses incurred by such affiliate which are directly attributable to the work performed on the Project, and shall not include, for example, intercompany profits resulting from members of an "affiliated group" (within the meaning of Section 1504 of the Code) participating in the construction of the Project or payments received by such affiliate due to early completion of the Project (or any portion thereof); (ii) the costs are paid with respect to a qualified residential rental Project or Project within the meaning of Section 142(d) of the Code, (iii) the costs are paid after the earlier of 60 days prior to September 14, 2023, being the date on which the Governmental Lender first declared its "official intent" to reimburse costs paid with respect to the Project (within the meaning of Section 1.150-2 of the Regulations) or the date of issue of the Funding Loan, and (iv) if the costs of the acquisition and construction of the Project were previously paid and are to be reimbursed with proceeds of the Funding Loan such costs were (A) "preliminary expenditures" (within the meaning of Section 1.150-2(f)(2) of the Regulations) with respect to the Project (such as architectural, engineering and soil testing services) incurred before commencement of acquisition and construction of the Project that do not exceed twenty percent (20%) of the issue price of the Governmental Lender Note (as defined in Section 1.148-1 of the Regulations), or (B) were capital expenditures with respect to the Project that are reimbursed no later than 18 months after the later of the date the expenditure was paid or the date the Project is placed in service (but no later than three years after the expenditures is paid); provided, however, that (w) Costs of Funding shall not be deemed to be Qualified Project Costs; (x) fees, charges or profits (including, without limitation, developer fees) payable to the Borrower or a "related person" (within the meaning of Section 144(a)(3) of the Code) shall not be deemed to be Qualified Project Costs; (y) letter of credit fees and municipal bond insurance premiums which represent a transfer of credit risk shall be allocated between Qualified Project Costs and other costs and expenses to be paid from the proceeds of the Funding Loan; and (z) letter of credit fees and municipal bond insurance premiums which do not represent a transfer of credit risk (including, without limitation, letter of credit fees payable to a "related person" to the Borrower) shall not constitute Qualified Project Costs.

**"Rebate Amount"** shall mean, for any given period, the amount determined by the Rebate Analyst as required to be rebated or paid as a yield reduction payment to the United States of America with respect to the Funding Loan.

**"Rebate Analyst"** shall mean the rebate analyst selected by the Borrower prior to the Closing Date and acceptable to the Governmental Lender and the Funding Lender.

**Rebate Analyst's Fee** shall mean the annual fee of the Rebate Analyst as established from time to time. The Rebate Analyst's Fee is payable by the Borrower to the Rebate Analyst as invoiced.

**"Rebate Fund"** shall mean the Rebate Fund created pursuant to Section 5.35 hereof.

**"Redevelopment Agreement"** shall mean that certain CARE MANOR I L.P. Redevelopment Agreement, by and among the Governmental Lender, through its Department of Planning and Development, Borrower and United for Better Living, Inc. NFP, an Illinois not-for-profit corporation.

**"Related Documents"** shall mean, collectively, any agreement or other document (other than the Borrower Loan Documents) granting a security interest (including each agreement that is the subject of any Borrower Loan Document), the Partnership Agreement, and any other agreement, instrument or other document (not constituting a Borrower Loan Document) relating to or executed in connection with the transactions contemplated by this Borrower Loan Agreement.

**["Replacement Reserve Agreement"** shall mean any Replacement Reserve Agreement between the Borrower and the Funding Lender, as the same may be amended, restated or supplemented from time to time.]

["**Replacement Reserve Fund Requirement**" means Borrower's funding obligations from time to time under the Replacement Reserve Agreement.]

"**Retainage**" shall mean, for each Construction Contract, the greater of (a) ten percent (10%) of all amounts required to be paid by a Contractor under the Construction Contract and (b) the actual retainage required under such Construction Contract, which shall be released (or reduced) upon satisfaction of the conditions set forth in Section [ ] of the Construction Funding Agreement.

"**Secondary Market Disclosure Document**" shall have the meaning set forth in Section 9.1.2 hereof.

"**Secondary Market Transaction**" shall have the meaning set forth in Section 9.1.1 hereof.

"**Securities**" shall have the meaning set forth in Section 9.1.1 hereof.

"**Securities Act**" shall mean the Securities Act of 1933, as amended.

"**Security**" shall have the meaning set forth in Article IV of the Funding Loan Agreement.

"**Security Documents**" shall mean any Security Instrument, Replacement Reserve Agreement, this Borrower Loan Agreement, the Agreement of Environmental Indemnification, and such other security instruments as may be required by the Construction Funding Agreement or that Funding Lenders may reasonably request.

"**Security Instrument**" shall have the meaning set forth in the recitals to this Borrower Loan Agreement.

"**Servicer**" shall mean any Servicer contracting with or appointed by the Funding Lender to service the Borrower Loan.

"**Servicing Agreement**" shall mean any servicing agreement or master servicing agreement, among the Servicer and the Funding Lender relating to the servicing of the Borrower Loan and any amendments thereto or any replacement thereof, if any.

"**Standard & Poor's**" or "**S&P**" shall mean Standard & Poor's Ratings Services, a division of McGraw-Hill Financial, Inc., or its successors.

"**State**" shall mean the State in which the Project is located.

"**Subordinate Debt**" means, collectively, any subordinate debt approved by the Funding Lenders with respect to the Project.

"**Subordinate Lender**" shall mean any lender providing Subordinate Debt.

"**Subordinate Loan Documents**" shall mean, collectively, all instruments, agreements and other documents evidencing, securing or otherwise relating to the Subordinate Debt or executed and delivered by Borrower and/or Subordinate Lender in connection with the Subordinate Debt.

"**Substantial Completion Date**" means the date that is three (3) months prior to the Completion Date.

“**Substantially Complete**” or “**Substantially Completed**” means the Funding Lender has determined that construction, as the case may be, of the Improvements is sufficiently complete such that the Improvements can be occupied by tenants as a multifamily residential rental project.

“**SWAP Obligations**” means the obligations of Borrower and any guarantors thereunder in connection with that certain ISDA Master Agreement by and between Borrower and Note Purchaser.

“**Tax Counsel**” shall have the meaning set forth in the Funding Loan Agreement.

“**Taxes**” shall mean all real estate and personal property taxes, assessments, water rates or sewer rents, now or hereafter levied or assessed or imposed against all or part of the Project.

“**Term**” shall mean the term of this Borrower Loan Agreement pursuant to Section 10.14.

“**Title Company**” means Chicago Title Insurance Company.

“**Title Insurance Policy**” shall mean the mortgagee title insurance policy, in form acceptable to the Funding Lender, issued with respect to the Mortgaged Property and insuring the lien of the Security Instrument.

“**UCC**” shall mean the Uniform Commercial Code as in effect in the State.

“**Unit**” shall mean a residential apartment unit within the Improvements.

“**Written Consent**” and “**Written Notice**” shall mean a written consent or notice signed by an Authorized Borrower Representative or an authorized representative of the Governmental Lender or the Funding Lender, as appropriate.

## ARTICLE II GENERAL

**Section 2.1. Origination of Borrower Loan.** In order to provide funds for the purposes provided herein, the Governmental Lender agrees that it will, in accordance with the Ordinance, enter into the Funding Loan Agreement and accept the Funding Loan from the Funding Lender. The proceeds of the Funding Loans shall be advanced by the Funding Lender to the Title Company and then to Borrower in accordance with the terms of the Construction Funding Agreement, the Construction Escrow Agreement, and this Borrower Loan Agreement.

The Governmental Lender hereby appoints the Funding Lender as its agent with full authority and power to act on its behalf to disburse the Borrower Loan for the account of the Governmental Lender, to take certain actions and exercise certain remedies with respect to the Borrower Loan, and for the other purposes set forth in this Borrower Loan Agreement and to do all other acts necessary or incidental to the performance and execution thereof. This appointment is coupled with an interest and is irrevocable except as expressly set forth herein. Accordingly, references to the rights of the Funding Lender to take actions under this Borrower Loan Agreement shall refer to Funding Lender in its role as agent of the Governmental Lender. The Funding Lender may designate a Servicer to fulfill the rights and responsibilities granted by Governmental Lender to Funding Lender pursuant to this Section 2.1; provided, however, that such designation shall not release or absolve Funding Lender from ultimate responsibility for fulfillment of such rights or responsibilities.

**Section 2.2. Security for the Funding Loan.**

(a) As security for the Funding Loan, the Governmental Lender has pledged and assigned the Security to the Funding Lender under and pursuant to the Funding Loan Agreement. All revenues and assets pledged and assigned thereby shall immediately be subject to the lien of such pledge without any physical delivery thereof or any further act, except in the case of the Borrower Note, which shall be delivered initially to the Funding Lender. The Borrower hereby acknowledges and consents to such assignment.

(b) With respect to the Unassigned Rights, subject to the limitations set forth in this Section 2.2, the Governmental Lender may:

(i) Tax Covenants. Seek specific performance of, and enforce, the tax covenants of the Funding Loan Agreement and the other Funding Loan Documents, seek injunctive relief against acts which may be in violation of any of the tax covenants, and enforce the Borrower's obligation to pay amounts for credit to the Rebate Fund;

(ii) Reserved Rights. Take whatever action at law or in equity which appears necessary or desirable to enforce the other Unassigned Rights.

(c) In no event shall the Governmental Lender, except at the express written direction of the Funding Lender or the Servicer, as agent for the Funding Lender:

(i) prosecute its action to a lien on the Project; or

(ii) take any action which may have the effect, directly or indirectly, of impairing the ability of the Borrower to timely pay the principal of, interest on, or other amounts due under, the Borrower Loan or of causing the Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future; or

(iii) interfere with the exercise by Funding Lender or Servicer of any of their rights under the Borrower Loan Documents upon the occurrence of an event of default by the Borrower under the Borrower Loan Documents or the Funding Loan Documents; or

(iv) take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Borrower Loan or the Funding Loan.

(d) The Governmental Lender shall provide written notice to the Funding Lender and the Servicer immediately upon taking any action at law or in equity to exercise any remedy or direct any proceeding under the Borrower Loan Documents or the Funding Loan Documents.

**Section 2.3. Loan; Borrower Note; Conditions to Closing.**

(a) The Funding Loan shall be funded directly to the Title Company and then to Borrower by the Funding Lender through the Construction Funding Agreement and the Construction Escrow Agreement, in one or more installments not to exceed the Borrower Loan Amount in accordance with the disbursement procedures set forth in the Construction Funding Agreement and the Construction Escrow Agreement. Upon funding of each installment of the

Funding Loan by the Funding Lender, as agent for the Governmental Lender, the Governmental Lender shall be deemed to have made a corresponding disbursement of the Borrower Loan to the Borrower in a like principal amount. The Borrower Loan shall mature and be payable at the times and in the amounts required under the terms hereof and of the Borrower Note. The proceeds of the Borrower Loan shall be used by the Borrower to pay costs of the acquisition, construction, development, equipping and/or operation of the Project. The Borrower hereby accepts the Borrower Loan and acknowledges that the Governmental Lender shall cause the Funding Lender to fund the Borrower Loan in the manner set forth herein and in the Funding Loan Agreement. The Governmental Lender acknowledges that the Borrower Loan shall be funded by the Funding Lender for the account of the Governmental Lender.

(b) The Borrower hereby accepts the Borrower Loan. As evidence of its obligation to repay the Borrower Loan, simultaneously with the delivery of this Borrower Loan Agreement to the Governmental Lender, the Borrower hereby agrees to execute and deliver the Borrower Note. The Borrower Loan shall mature and be payable at the times and in the amounts required under the terms hereof and of the Borrower Note.

(c) Closing of the Borrower Loan on the Closing Date shall be conditioned upon satisfaction or waiver by the Governmental Lender and the Funding Lender, in its sole discretion, of each of the conditions precedent to closing set forth in the Funding Loan Agreement, this Borrower Loan Agreement and the Construction Funding Agreement, including but not limited to the following:

(i) evidence of proper recordation of the Security Instrument, an assignment of the Security Instrument from the Governmental Lender to the Funding Lender, the Regulatory Agreement (as defined in the Funding Loan Agreement), and each of the other documents specified for recording in instructions delivered to the Title Company by counsel to the Funding Lender (or that such documents have been delivered to an authorized agent of the Title Company for recordation under binding recording instructions from Funding Lender's counsel or such other counsel as may be acceptable to the Funding Lender); and

(ii) delivery into escrow with the Title Company (or separate escrow company, if applicable) of all amounts required to be paid in connection with the origination of the Borrower Loan and the Funding Loan and any underlying real estate transfers or transactions, including the Costs of Funding Deposit and the Borrower Initial Equity, all as specified in written instructions delivered to the Title Company by counsel to the appropriate Funding Lender (or such other counsel as may be acceptable to the respective Funding Lender); and

(iii) payment of all fees payable in connection with the closing of the Borrower Loan, including the Governmental Lender's Closing Fee.

#### **Section 2.4. Borrower Loan Payments.**

(a) The Borrower shall make Borrower Loan Payments in accordance with the Borrower Note. Each Borrower Loan Payment made by the Borrower shall be made in funds immediately available to the Funding Lender or the Servicer by 2:00 p.m., New York City time, on the Borrower Loan Payment Date. Each such payment shall be made to the Funding Lender or the Servicer by deposit to such account as the Funding Lender or Servicer, as applicable, may designate by Written Notice to the Borrower. Whenever any Borrower Loan Payment shall be

stated to be due on a day that is not a Business Day, such payment shall be due on the first Business Day immediately thereafter. In addition, the Borrower shall make Borrower Loan Payments in accordance with the Borrower Note in the amounts and at the times necessary to make all payments due and payable on the Funding Loan. All payments made by the Borrower hereunder or by the Borrower under the other Borrower Loan Documents, shall be made irrespective of, and without any deduction for, any set-offs or counterclaims, but such payment shall not constitute a waiver of any such set offs or counterclaims.

(b) Unless there is no Servicer, payments of principal and interest on the Borrower Note shall be paid to the Servicer. If there is no Servicer, payments of principal and interest on the Borrower Note shall be paid directly to Funding Lender.

**Section 2.5. Additional Borrower Payments.**

(a) The Borrower shall pay on demand the following amounts:

(i) to the Servicer or the Funding Lender, the Rebate Amount then due, if any, to be deposited in the Rebate Fund as specified in Section 5.35 hereof and the Rebate Analyst's Fee and any other costs incurred to calculate such Rebate Amount (to the extent such costs are not included in the Borrower Loan Payment);

(ii) to the Governmental Lender, the Ongoing Governmental Lender Fee and all fees, charges, costs, advances, indemnities and expenses, including agent and counsel fees, of the Governmental Lender incurred under the Borrower Loan Documents or the Funding Loan Documents, and any taxes and assessments with respect to the Project, as and when the same become due;

(iii) [Reserved];

(iv) all Costs of Funding and fees, charges and expenses, including agent and counsel fees incurred in connection with the origination of the Borrower Loan and the Funding Loan, as and when the same become due;

(v) to the Funding Lender, all charges, costs, advances, indemnities and expenses, including agent and counsel fees, of the Funding Lender incurred by the Funding Lender at any time in connection with the Borrower Loan, the Funding Loan or the Project, including, without limitation, reasonable counsel fees and actual expenses incurred in connection with the interpretation, performance, or amendment and all counsel fees and expenses relating to the enforcement of the Borrower Loan Documents or the Funding Loan Documents or any other documents relating to the Project or the Borrower Loan or in connection with questions or other matters arising under such documents or in connection with any federal or state tax audit; and

(vi) any Late Charge due and payable under the terms of the Borrower Note and Section 2.6 hereof; provided, however, that all payments made pursuant to this subsection (vi) shall be made to the Servicer, and if there is no Servicer, such payments shall be made to the Funding Lender.

(b) The Borrower shall pay to the party entitled thereto as expressly set forth in this Borrower Loan Agreement or the other Borrower Loan Documents or Funding Loan Documents:

(i) all expenses incurred in connection with the enforcement of any rights under this Borrower Loan Agreement or any other Borrower Loan Document, the Regulatory Agreement, or any Funding Loan Document by the Governmental Lender, Funding Lender or the Servicer;

(ii) all other payments of whatever nature that the Borrower has agreed to pay or assume under the provisions of this Borrower Loan Agreement or any other Borrower Loan Document or Funding Loan Document; and

(iii) all expenses, costs and fees relating to inspections of the Project required by the Governmental Lender, the Funding Lender, the Servicer or the Construction Consultant, in accordance with the Borrower Loan Documents or the Funding Loan Documents or to reimburse such parties for such expenses, costs and fees.

**Section 2.6. Overdue Payments; Payments if Default.** If any Borrower Payment Obligation is not paid by or on behalf of the Borrower when due, the Borrower shall pay to the Servicer, a Late Charge in the amount and to the extent set forth in the Borrower Note, if any.

**Section 2.7. Calculation of Interest Payments and Deposits to Real Estate Related Reserve Funds.** The Borrower acknowledges as follows: (a) calculation of all interest payments shall be made by the Funding Lender; (b) deposits with respect to the Taxes and Other Charges shall be calculated by the Servicer or if there is no Servicer, the Funding Lender in accordance with the Security Instrument or, as applicable, the Construction Funding Agreement; and (c) deposits with respect to any replacement reserve funds required by the Funding Lender shall be calculated by the Servicer in accordance with the [Replacement Reserve Agreement]. In the event and to the extent that the Servicer or the Funding Lender, pursuant to the terms hereof, shall determine at any time that there exists a deficiency in amounts previously owed but not paid with respect to deposits to such replacement reserve fund, such deficiency shall be immediately due and payable hereunder following Written Notice to the Borrower.

**Section 2.8. Grant of Security Interest; Application of Funds.** To the extent not inconsistent with the Security Instrument and as security for payment of the Borrower Payment Obligations and the performance by the Borrower of all other terms, conditions and provisions of the Borrower Loan Documents, the Borrower hereby pledges and assigns to the Funding Lender, and grants to the Funding Lender, a security interest in, all the Borrower's right, title and interest in and to all payments to or moneys held in the funds and accounts created and held by the Funding Lender or the Servicer for the Project. This Borrower Loan Agreement is, among other things, intended by the parties to be a security agreement for purposes of the UCC. Upon the occurrence and during the continuance of an Event of Default hereunder, the Funding Lender and the Servicer shall apply or cause to be applied any sums held by the Funding Lender and the Servicer with respect to the Project in any manner and in any order determined by Funding Lender, in Funding Lender's sole and absolute discretion.

**Section 2.9. Marshalling; Payments Set Aside.** The Governmental Lender and Funding Lender shall be under no obligation to marshal any assets in favor of Borrower or any other Person or against or in payment of any or all of the proceeds. To the extent that Borrower makes a payment or payments or transfers any assets to the Governmental Lender or Funding Lender, or the Governmental Lender or Funding Lender enforces its liens, and such payment or payments or transfers, or the proceeds of such enforcement or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party in connection with any insolvency proceeding, or otherwise, then: (i) any and all obligations owed to the Governmental Lender or Funding Lender and any and all remedies available to the Governmental Lender or Funding Lender under the terms of the Borrower Loan Documents and the Funding Loan Documents or in law or

equity against Borrower, Guarantor or General Partner and/or any of their properties shall be automatically revived and reinstated to the extent (and only to the extent) of any recovery permitted under clause (ii) below; and (ii) the Governmental Lender and Funding Lender shall be entitled to recover (and shall be entitled to file a proof of claim to obtain such recovery in any applicable bankruptcy, insolvency, receivership or fraudulent conveyance or fraudulent transfer proceeding) either: (x) the amount of payments or the value of the transfer or (y) if the transfer has been undone and the assets returned in whole or in part, the value of the consideration paid to or received by Borrower for the initial asset transfer, plus in each case any deferred interest from the date of the disgorgement to the date of distribution to the Governmental Lender or Funding Lender in any bankruptcy, insolvency, receivership or fraudulent conveyance or fraudulent transfer proceeding, and any costs and expenses due and owing, including, without limitation, any reasonable attorneys' fees incurred by the Governmental Lender or Funding Lender in connection with the exercise by the Governmental Lender or Funding Lender of its rights under this Section 2.9.

**Section 2.10. Borrower Loan Disbursements.** The Borrower Loan shall be disbursed by the Funding Lender, as agent for the Governmental Lender, pursuant to the Construction Funding Agreement.

### ARTICLE III

#### CONVERSION

**Section 3.1. Conversion Date and Extension of Outside Conversion Date.** Borrower shall satisfy each of the Conversion Conditions and cause the Conversion to occur on or before the Outside Conversion Date (as may be extended in accordance with the Construction Funding Agreement to the Extended Outside Conversion Date), as further provided in the Forward Bond Purchase Agreement and the Construction Funding Agreement. The failure of Conversion to occur on or before the Outside Conversion Date, as may be extended in accordance with the Construction Funding Agreement to the Extended Outside Conversion Date, shall constitute an Event of Default hereunder and under the Borrower Loan Documents. Upon satisfaction of the Conversion Conditions, the Note Purchaser shall purchase the Governmental Note from the Funding Lender in accordance with the Forward Bond Purchase Agreement.

**Section 3.2. [Intentionally Omitted].**

**Section 3.3. Mandatory Prepayment of the Borrower Loan.**

(a) As further provided in the Forward Bond Purchase Agreement and the Construction Funding Agreement, if and to the extent the Permanent Loan Purchase Price is less than the Interim Phase Amount, Funding Lender may require Borrower to make a partial prepayment of the Borrower Loan in an amount equal to the difference between the Interim Phase Amount and the Permanent Loan Purchase Price (a "Pre-Conversion Loan Equalization Payment").

(b) Any prepayment in full or in part of the Borrower Loan required pursuant to Section 3.3(a) above shall be subject to a prepayment premium under certain circumstances as more particularly set forth in the Borrower Note.

**Section 3.4. [Intentionally Omitted].**

**Section 3.5. No Amendment.** Nothing contained in this Article III shall be construed to amend, modify, alter, change or supersede the terms and provisions of the Borrower Note, Security

Instrument, the Construction Funding Agreement, the Forward Loan Purchase Agreement or any other Borrower Loan Document and, if there shall exist a conflict between the terms and provisions of this Article III and those of the Borrower Note, Security Instrument, the Construction Funding Agreement, the Forward Loan Purchase Agreement or other Borrower Loan Documents, then the terms and provisions of the Borrower Note, Security Instrument, the Construction Funding Agreement, the Forward Loan Purchase Agreement and other Borrower Loan Documents shall control, provided, however, that in the event of a conflict between the terms and provisions of this Article III and those of the Borrower's loan application with the Funding Lender, the terms and provisions of this Article III shall control.

**Determinations by Funding Lender.** In any instance where the consent or approval of Funding Lender may be given or is required, or where any determination, judgment or decision is to be rendered by Funding Lender under this Article III, including in connection with the Construction Funding Agreement, the granting, withholding or denial of such consent or approval and the rendering of such determination, judgment or decision shall be made or exercised by the Funding Lender (or its designated representative), at its sole and exclusive option and in its sole and absolute discretion.

#### **ARTICLE IV REPRESENTATIONS AND WARRANTIES**

**Section 4.1. Borrower Representations.** To induce the Governmental Lender to execute this Borrower Loan Agreement and to induce Funding Lender to make Disbursements, Borrower represents and warrants for the benefit of the Governmental Lender, Funding Lender and the Servicer, that the representations and warranties set forth in this Section 4.1 are complete and accurate as of the Closing Date and will be complete and accurate, and deemed remade, as of the date of each Disbursement, as of the original Outside Conversion Date, as of the date of any extension thereof and as of the Maturity Date in accordance with the terms and conditions of the Borrower Note. Subject to Section 4.2 hereof, the representations, warranties and agreements set forth in this Section 4.1 shall survive the making of the Borrower Loan, and shall remain in effect and true and correct in all material respects until the Borrower Loan and all other Borrower Payment Obligations have been repaid in full.

**Section 4.1.1 Organization; Special Purpose.** The Borrower is in good standing under the laws of the State (and under the laws of the state in which the Borrower was formed if the Borrower was not formed under the laws of the State), has full legal right, power and authority to enter into the Borrower Loan Documents to which it is a party, and to carry out and consummate all transactions contemplated by the Borrower Loan Documents to which it is a party, and by proper corporate, limited partnership or limited liability company action, as appropriate has duly authorized the execution, delivery and performance of the Borrower Loan Documents to which it is a party. The Person(s) of the Borrower executing the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party are fully authorized to execute the same. The Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party have been duly authorized, executed and delivered by the Borrower. The sole business of the Borrower is the ownership, management and operation of the Project.

**Section 4.1.2 Proceedings; Enforceability.** Assuming due execution and delivery by the other parties thereto, the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party will constitute the legal, valid and binding agreements of the Borrower enforceable against the Borrower in accordance with their terms; except in each case as enforcement may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally, by the application of equitable principles regardless of whether enforcement is sought in a proceeding at law or in equity and by public policy.

**Section 4.1.3 No Conflicts.** The execution and delivery of the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof and thereof, will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under the Partnership Agreement of the Borrower, or to the best knowledge of the Borrower and with respect to the Borrower, any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Borrower is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower, which conflict, violation, breach, default, lien, charge or encumbrance might have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, or the financial condition, assets, properties or operations of the Borrower.

**Section 4.1.4 Litigation; Adverse Facts.** There is no Legal Action, nor is there a basis known to Borrower for any Legal Action, before or by any court or federal, state, municipal or other governmental authority, pending, or to the knowledge of the Borrower, after reasonable investigation, threatened, against or affecting the Borrower, the General Partner or the Guarantor, or their respective assets, properties or operations which, if determined adversely to the Borrower or its interests, would have a material adverse effect upon the consummation of the transactions contemplated by, or the validity of, the Borrower Loan Documents or the Funding Loan Documents, upon the ability of each of Borrower, General Partner and Guarantor to perform their respective obligations under the Borrower Loan Documents, the Funding Loan Documents and the Related Documents to which it is a party, or upon the financial condition, assets (including the Project), properties or operations of the Borrower, the General Partner or the Guarantor. None of the Borrower, General Partner or Guarantor is in default (and no event has occurred and is continuing which with the giving of notice or the passage of time or both could constitute a default) with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, the ability of each of Borrower, General Partner and Guarantor to perform their respective obligations under the Borrower Loan Documents, the Funding Loan Documents and the Related Documents to which it is a party, or the financial condition, assets, properties or operations of the Borrower, General Partner or Guarantor. None of Borrower, General Partner or Guarantor are (a) in violation of any applicable law, which violation materially and adversely affects or may materially and adversely affect the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of Borrower, General Partner or Guarantor, as applicable; (b) subject to, or in default with respect to, any other Legal Requirement that would have a material adverse effect on the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of Borrower, General Partner or Guarantor, as applicable; or (c) in default with respect to any agreement to which Borrower, General Partner or Guarantor, as applicable, are a party or by which they are bound, which default would have a material adverse effect on the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of Borrower, General Partner or Guarantor, as applicable; and (d) there is no Legal Action pending or, to the knowledge of Borrower, threatened against or affecting Borrower, General Partner or Guarantor questioning the validity or the enforceability of this Borrower Loan Agreement or any of the other Borrower Loan Documents or the Funding Loan Documents or of any of the Related Documents. All tax returns (federal, state and local) required to be filed by or on behalf of the Borrower have been filed, and all taxes shown thereon to be due, including interest and penalties, except such, if any, as are being actively contested by the Borrower in good faith, have been paid or adequate reserves have been made for the payment thereof which reserves, if any, are reflected in the audited financial statements described therein. The Borrower

enjoys the peaceful and undisturbed possession of all of the premises upon which it is operating its facilities.

**Section 4.1.5 Agreements; Consents; Approvals.** Except as contemplated by the Borrower Loan Documents and the Funding Loan Documents, the Borrower is not a party to any agreement or instrument or subject to any restriction that would materially adversely affect the Borrower, the Project, or the Borrower's business, properties, operations or financial condition or business prospects, except the Permitted Encumbrances. The Borrower is not in default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any Permitted Encumbrance or any other agreement or instrument to which it is a party or by which it or the Project is bound.

No consent or approval of any trustee or holder of any indebtedness of the Borrower, and to the best knowledge of the Borrower and only with respect to the Borrower, no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority (except no representation is made with respect to any state securities or "blue sky" laws) is necessary in connection with the execution and delivery of the Borrower Loan Documents or the Funding Loan Documents, or the consummation of any transaction herein or therein contemplated, or the fulfillment of or compliance with the terms and conditions hereof or thereof, except as have been obtained or made and as are in full force and effect.

**Section 4.1.6 Title.** The Borrower shall have marketable title to the Project, free and clear of all Liens except the Permitted Encumbrances. The Security Instrument, when properly recorded in the appropriate records, together with any UCC financing statements required to be filed in connection therewith, will create (i) a valid, perfected first priority lien on the fee (or leasehold, if applicable) interest in the Project and (ii) perfected security interests in and to, and perfected collateral assignments of, all personalty included in the Project (including the Leases), all in accordance with the terms thereof, in each case subject only to any applicable Permitted Encumbrances. To the Borrower's knowledge, there are no delinquent real property taxes or assessments, including water and sewer charges, with respect to the Project, nor are there any claims for payment for work, labor or materials affecting the Project which are or may become a Lien prior to, or of equal priority with, the Liens created by the Borrower Loan Documents and the Funding Loan Documents.

**Section 4.1.7 Survey.** To the best knowledge of the Borrower, the survey for the Project delivered to the Governmental Lender and the Funding Lender does not fail to reflect any material matter affecting the Project or the title thereto.

**Section 4.1.8 No Bankruptcy Filing.** The Borrower is not contemplating either the filing of a petition by it under any state or federal bankruptcy or insolvency law or the liquidation of all or a major portion of its property (a "Bankruptcy Proceeding"), and the Borrower has no knowledge of any Person contemplating the filing of any such petition against it. As of the Closing Date, the Borrower has the ability to pay its debts as they become due.

**Section 4.1.9 Full and Accurate Disclosure.** No statement of fact made by the Borrower in any Borrower Loan Document or any Funding Loan Document contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained therein in light of the circumstances in which they were made, not misleading. There is no material fact or circumstance presently known to the Borrower that has not been disclosed to the Governmental Lender and the Funding Lender which materially and adversely affects the Project or the business, operations or financial condition or business prospects of the Borrower or the Borrower's ability to meet its obligations

under this Borrower Loan Agreement and the other Borrower Loan Documents and Funding Loan Documents to which it is a party in a timely manner.

**Section 4.1.10 No Plan Assets.** The Borrower is not an “employee benefit plan,” as defined in Section 3(3) of ERISA, subject to Title I of ERISA, and none of the assets of the Borrower constitutes or will constitute “plan assets” of one or more such plans within the meaning of 29 C.F.R. Section 2510.3 101.

**Section 4.1.11 Compliance.** The Borrower, the Project and the use thereof will comply, to the extent required, in all material respects with all applicable Legal Requirements. The Borrower is not in default or violation of any order, writ, injunction, decree or demand of any Governmental Authority, the violation of which would materially adversely affect the financial condition or business prospects or the business of the Borrower. There has not been committed by the Borrower or any Affiliate involved with the operation or use of the Project any act or omission affording any Governmental Authority the right of forfeiture as against the Project or any part thereof or any moneys paid in performance of the Borrower’s obligations under any Borrower Loan Document or any Funding Loan Documents.

**Section 4.1.12 Contracts.** All service, maintenance or repair contracts affecting the Project have been entered into at arm’s length (except for such contracts between the Borrower and its affiliates or the affiliates of the Borrower Controlling Entity of the Borrower) in the ordinary course of the Borrower’s business and provide for the payment of fees in amounts and upon terms comparable to existing market rates.

**Section 4.1.13 Financial Information.** All financial data, including any statements of cash flow and income and operating expense, that have been delivered to the Governmental Lender or the Funding Lender in respect of the Project by or on behalf of the Borrower, to the best knowledge of the Borrower, (i) are accurate and complete in all material respects, (ii) accurately represent the financial condition of the Project as of the date of such reports, and (iii) to the extent prepared by an independent certified public accounting firm, have been prepared in accordance with GAAP consistently applied throughout the periods covered, except as disclosed therein. Other than pursuant to or permitted by the Borrower Loan Documents or the Funding Loan Documents or the Borrower organizational documents, the Borrower has no contingent liabilities, unusual forward or long-term commitments or unrealized or anticipated losses from any unfavorable commitments. Since the date of such financial statements, there has been no materially adverse change in the financial condition, operations or business of the Borrower from that set forth in said financial statements.

**Section 4.1.14 Condemnation.** No Condemnation or other proceeding has been commenced or, to the Borrower’s knowledge, is contemplated, threatened or pending with respect to all or part of the Project or for the relocation of roadways providing access to the Project.

**Section 4.1.15 Federal Reserve Regulations.** No part of the proceeds of the Borrower Loan will be used for the purpose of purchasing or acquiring any “margin stock” within the meaning of Regulation U of the Board of Governors of the Federal Reserve System or for any other purpose that would be inconsistent with such Regulation U or any other regulation of such Board of Governors, or for any purpose prohibited by Legal Requirements or any Borrower Loan Document or Funding Loan Document.

**Section 4.1.16 Utilities and Public Access.** To the best of the Borrower’s knowledge, the Project is or will be served by water, sewer, sanitary sewer and storm drain facilities adequate to service it for its intended uses. All public utilities necessary or convenient to the full use and enjoyment

of the Project are or will be located in the public right-of-way abutting the Project, and all such utilities are or will be connected so as to serve the Project without passing over other property absent a valid easement. All roads necessary for the use of the Project for its current purpose have been or will be completed and dedicated to public use and accepted by all Governmental Authorities. Except for Permitted Encumbrances, the Project does not share ingress and egress through an easement or private road or share on-site or off-site recreational facilities and amenities that are not located on the Project and under the exclusive control of the Borrower, or where there is shared ingress and egress or amenities, there exists an easement or joint use and maintenance agreement under which (i) access to and use and enjoyment of the easement or private road and/or recreational facilities and amenities is perpetual, (ii) the number of parties sharing such easement and/or recreational facilities and amenities must be specified, (iii) the Borrower's responsibilities and share of expenses are specified, and (iv) the failure to pay any maintenance fee with respect to an easement will not result in a loss of usage of the easement.

**Section 4.1.17 Not a Foreign Person.** The Borrower is not a "foreign person" within the meaning of §1445(f)(3) of the Code.

**Section 4.1.18 Separate Lots.** Each parcel comprising the Land is a separate tax lot and is not a portion of any other tax lot that is not a part of the Land.

**Section 4.1.19 Assessments.** There are no pending or, to the Borrower's best knowledge, proposed special or other assessments for public improvements or otherwise affecting the Project, or any contemplated improvements to the Project that may result in such special or other assessments.

**Section 4.1.20 Enforceability.** The Borrower Loan Documents and the Funding Loan Documents are not subject to, and the Borrower has not asserted, any right of rescission, set-off, counterclaim or defense, including the defense of usury.

**Section 4.1.21 Insurance.** The Borrower has obtained the insurance required by this Borrower Loan Agreement, and, if applicable, the Construction Funding Agreement and the Security Instrument and has delivered to the Servicer copies of insurance policies or certificates of insurance reflecting the insurance coverages, amounts and other requirements set forth in this Borrower Loan Agreement, if applicable, and the Security Instrument.

**Section 4.1.22 Use of Property; Licenses.** The Project will be used as a multifamily residential rental Project and other appurtenant and related uses, which use is consistent with the zoning classification for the Project. All certifications, permits, licenses and approvals, including certificates of completion and occupancy permits required for the legal use or legal, nonconforming use, as applicable, occupancy and operation of the Project (collectively, the "Licenses") required at this time for the construction, as appropriate, and equipping of the Project have been obtained. To the Borrower's knowledge, all Licenses obtained by the Borrower have been validly issued and are in full force and effect. The Borrower has no reason to believe that any of the Licenses required for the future use and occupancy of the Project and not heretofore obtained by the Borrower will not be obtained by the Borrower in the ordinary course following the Completion Date. No Licenses will terminate, or become void or voidable or terminable, upon any sale, transfer or other disposition of the Project, including any transfer pursuant to foreclosure sale under the Security Instrument or deed in lieu of foreclosure thereunder. The Project does not violate any density or building setback requirements of the applicable zoning law except to the extent, if any, shown on the survey, no proceedings are, to the best of the Borrower's knowledge, pending or threatened that would result in a change of the zoning of the Project.

**Section 4.1.23 Flood Zone.** Either all Improvements will be constructed above the flood grade or the Borrower will obtain appropriate flood insurance as directed by the Servicer.

**Section 4.1.24 Physical Condition.** The Project, including all Improvements, parking facilities, systems, fixtures, Equipment and landscaping, are or, after completion of the construction and/or repairs, as appropriate, will be in good and habitable condition in all material respects and in good order and repair in all material respects (reasonable wear and tear excepted). The Borrower has not received notice from any insurance company or bonding company of any defect or inadequacy in the Project, or any part thereof, which would adversely affect its insurability or cause the imposition of extraordinary premiums or charges thereon or any termination of any policy of insurance or bond. The physical configuration of the Project is not in material violation of the ADA, if required under applicable law.

**Section 4.1.25 Encroachments.** All of the Improvements included in determining the appraised value of the Project will lie wholly within the boundaries and building restriction lines of the Project, and no improvement on an adjoining property encroaches upon the Project, and no easement or other encumbrance upon the Project encroaches upon any of the Improvements, so as to affect the value or marketability of the Project, except those insured against by the Title Insurance Policy or disclosed in the survey of the Project as approved by the Funding Lender.

**Section 4.1.26 State Law Requirements.** The Borrower hereby represents, covenants and agrees to comply with the provisions of all applicable State laws relating to the Borrower Loan, the Funding Loan and the Project.

**Section 4.1.27 Filing and Recording Taxes.** All transfer taxes, deed stamps, intangible taxes or other amounts in the nature of transfer taxes required to be paid by any Person under applicable Legal Requirements in connection with the transfer of the Project to the Borrower have been paid. All mortgage, mortgage recording, stamp, intangible or other similar taxes required to be paid by any Person under applicable Legal Requirements in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of any of the Borrower Loan Documents and the Funding Loan Documents have been or will be paid.

**Section 4.1.28 Investment Company Act.** The Borrower is not (i) an "investment company" or a company "controlled" by an "investment company," within the meaning of the Investment Company Act of 1940, as amended; or (ii) a "holding company" or a "subsidiary company" of a "holding company" or an "affiliate" of either a "holding company" or a "subsidiary company" within the meaning of the Public Utility Holding Company Act of 1935, as amended.

**Section 4.1.29 Fraudulent Transfer.** The Borrower has not accepted the Borrower Loan or entered into any Borrower Loan Document or Funding Loan Document with the actual intent to hinder, delay or defraud any creditor, and the Borrower has received reasonably equivalent value in exchange for its obligations under the Borrower Loan Documents and the Funding Loan Documents. Giving effect to the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents, the fair saleable value of the Borrower's assets exceeds and will, immediately following the execution and delivery of the Borrower Loan Documents and the Funding Loan Documents, exceed the Borrower's total liabilities, including subordinated, unliquidated, disputed or contingent liabilities. The fair saleable value of the Borrower's assets is and will, immediately following the execution and delivery of the Borrower Loan Documents and the Funding Loan Documents, be greater than the Borrower's probable liabilities, including the maximum amount of its contingent liabilities or its debts as such debts become absolute and matured. The Borrower's assets do not and, immediately following the execution and delivery of the Borrower Loan Documents and the Funding Loan Documents will not, constitute

unreasonably small capital to carry out its business as conducted or as proposed to be conducted. The Borrower does not intend to, and does not believe that it will, incur debts and liabilities (including contingent liabilities and other commitments) beyond its ability to pay such debts as they mature (taking into account the timing and amounts to be payable on or in respect of obligations of the Borrower).

**Section 4.1.30 Ownership of the Borrower.** Except as set forth in (or contemplated under) the Partnership Agreement of the Borrower, the Borrower has no obligation to any Person to purchase, repurchase or issue any ownership interest in it.

**Section 4.1.31 Environmental Matters.** To the best of Borrower's knowledge and except as disclosed in environmental reports previously delivered to the Funding Lender and the Governmental Lender (the "Prior Environmental Disclosures"), the Project is not in violation of any Legal Requirement pertaining to or imposing liability or standards of conduct concerning environmental regulation, contamination or clean-up, and will comply with covenants and requirements relating to environmental hazards as set forth in the Security Instrument. The Borrower will execute and deliver the Agreement of Environmental Indemnification.

**Section 4.1.32 Name; Principal Place of Business.** Unless prior Written Notice is given to the Funding Lender, the Borrower does not use and will not use any trade name, and has not done and will not do business under any name other than its actual name set forth herein. The principal place of business of the Borrower is its primary address for notices as set forth in Section 10.1 hereof, and the Borrower has no other place of business, other than the Project and such principal place of business.

**Section 4.1.33 Subordinated Debt.** There is no secured or unsecured indebtedness with respect to the Project or any residual interest therein, other than Permitted Encumbrances and the permitted secured indebtedness described in Section 6.7 hereof, except an unsecured deferred developer fee not to exceed the amount permitted by Funding Lender as determined on the Closing Date. .

**Section 4.1.34 Filing of Taxes.** The Borrower has filed (or has obtained effective extensions for filing) all federal, state and local tax returns required to be filed and has paid or made adequate provision for the payment of all federal, state and local taxes, charges and assessments, if any, payable by the Borrower.

**Section 4.1.35 General Tax.** All representations, warranties and certifications of the Borrower set forth in the Regulatory Agreement and the Tax Compliance Agreement are incorporated by reference herein and the Borrower will comply with such as if set forth herein.

**Section 4.1.36 Approval of the Borrower Loan Documents and Funding Loan Documents.** By its execution and delivery of this Borrower Loan Agreement, the Borrower approves the form and substance of the Borrower Loan Documents and the Funding Loan Documents, and agrees to carry out the responsibilities and duties specified in the Borrower Loan Documents and the Funding Loan Documents to be carried out by the Borrower. The Borrower acknowledges that (a) it understands the nature and structure of the transactions relating to the financing of the Project, (b) it is familiar with the provisions of all of the Borrower Loan Documents and the Funding Loan Documents and other documents and instruments relating to the financing, (c) it understands the risks inherent in such transactions, including without limitation the risk of loss of the Project, and (d) it has not relied on the Governmental Lender, the Funding Lender or the Servicer for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by the Borrower Loan Documents and the Funding Loan Documents or otherwise relied on the Governmental Lender, the Funding Lender or the Servicer in any manner.

**Section 4.1.37 Funding Loan Agreement.** The Borrower has read and accepts and agrees that it is bound by the Funding Loan Agreement and the Funding Loan Documents.

**Section 4.1.38 Americans with Disabilities Act.** The Project, as designed, will conform in all material respects with all applicable zoning, planning, building and environmental laws, ordinances and regulations of governmental authorities having jurisdiction over the Project, including, but not limited to, the Americans with Disabilities Act of 1990 ("ADA"), to the extent required (as evidenced by an architect's certificate to such effect).

**Section 4.1.39 Requirements of Code and Regulations.** The Project satisfies all requirements of the Code and the Regulations applicable to the Project.

**Section 4.1.40 Regulatory Agreement.** The Project is, as of the date of origination of the Funding Loan, in compliance with all requirements of the Regulatory Agreement to the extent such requirements are applicable; and the Borrower intends to cause the residential units in the Project to be rented or available for rental on a basis which satisfies the requirements of the Regulatory Agreement, including all applicable requirements of the Code and the Regulations, and pursuant to leases which comply with all applicable laws.

**Section 4.1.41 Intention to Hold Project.** The Borrower intends to hold the Project for its own account and has no current plans, and has not entered into any agreement, to sell the Project or any part of it; and the Borrower intends to occupy the Project or cause the Project to be occupied and to operate it or cause it to be operated at all times during the term of this Borrower Loan Agreement in compliance with the terms of this Borrower Loan Agreement and the Regulatory Agreement and does not know of any reason why the Project will not be so used by it in the absence of circumstances not now anticipated by it or totally beyond its control.

**Section 4.1.42 Concerning General Partner.**

(a) The General Partner is an Illinois corporation, duly organized and validly existing under the laws of the State. General Partner has all requisite power and authority, rights and franchises to enter into and perform its obligations under the Borrower Loan Documents and the Funding Loan Documents to be executed by such General Partner for its own account and on behalf of Borrower, as General Partner of Borrower, under this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents.

(b) General Partner has made all filings (including, without limitation, all required filings related to the use of fictitious business names) and is in good standing in the State and in each other jurisdiction in which the character of the property it owns or the nature of the business it transacts makes such filings necessary or where the failure to make such filings could have a material adverse effect on the business, operations, assets, condition (financial or otherwise) or prospects of General Partner.

(c) General Partner is duly authorized to do business in the State.

(d) The execution, delivery and performance by Borrower of the Borrower Loan Documents and the Funding Loan Documents have been duly authorized by all necessary action of General Partner on behalf of Borrower, and by all necessary action on behalf of General Partner.

(e) The execution, delivery and performance by General Partner, on behalf of Borrower, of the Borrower Loan Documents and the Funding Loan Documents will not violate (i) the General Partner's organizational documents; (ii) any other Legal Requirement affecting General Partner or any of its properties; or (iii) any agreement to which General Partner is bound or to which it is a party; and will not result in or require the creation (except as provided in or contemplated by this Borrower Loan Agreement) of any Lien upon any of such properties, any of the Collateral or any of the property or funds pledged or delivered to Funding Lender pursuant to the Security Documents.

**Section 4.1.43 Government and Private Approvals.** All governmental or regulatory orders, consents, permits, authorizations and approvals required for the construction, use, occupancy and operation of the Improvements, that may be granted or denied in the discretion of any Governmental Authority, have been obtained and are in full force and effect (or, in the case of any of the foregoing that Borrower is not required to have as of the Closing Date, will be obtained), and will be maintained in full force and effect at all times during the construction of the Improvements. All such orders, consents, permits, authorizations and approvals that may not be denied in the discretion of any Governmental Authority shall be obtained prior to the commencement of any work for which such orders, consents, permits, authorizations or approvals are required, and, once obtained, such orders, consents, permits, authorizations and approvals will be maintained in full force and effect at all times during the construction of the Improvements. Except as set forth in the preceding two sentences, no additional governmental or regulatory actions, filings or registrations with respect to the Improvements, and no approvals, authorizations or consents of any trustee or holder of any indebtedness or obligation of Borrower, are required for the due execution, delivery and performance by Borrower, or General Partner of any of the Borrower Loan Documents or the Funding Loan Documents or the Related Documents executed by Borrower or General Partner, as applicable. All required zoning approvals have been obtained, and the zoning of the Land for the Project is not conditional upon the happening of any further event.

**Section 4.1.44 [Concerning Guarantor.** The Borrower Loan Documents and the Funding Loan Documents to which the Guarantor is a party or a signatory executed simultaneously with this Borrower Loan Agreement have been duly executed and delivered by the Guarantor and are legally valid and binding obligations of Guarantor, enforceable against the Guarantor in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity.]

**Section 4.1.45 No Material Defaults.** Except as previously disclosed to Funding Lender in writing, there exists no material violation of or material default by Borrower under, and, to the best knowledge of Borrower, no event has occurred which, upon the giving of notice or the passage of time, or both, would constitute a material default with respect to: (i) the terms of any instrument evidencing, securing or guaranteeing any indebtedness secured by the Project or any portion or interest thereof or therein; (ii) any lease or other agreement affecting the Project or to which Borrower is a party; (iii) any license, permit, statute, ordinance, law, judgment, order, writ, injunction, decree, rule or regulation of any Governmental Authority, or any determination or award of any arbitrator to which Borrower or the Project may be bound; or (iv) any mortgage, instrument, agreement or document by which Borrower or any of its respective properties is bound; in the case of any of the foregoing: (1) which involves any Borrower Loan Document or Funding Loan Document; (2) which involves the Project and is not adequately covered by insurance; (3) that might materially and adversely affect the ability of Borrower, General Partner or Guarantor or to perform any of its respective obligations under any of the Borrower Loan Documents or the Funding Loan Documents or any other material instrument, agreement or document to which it is a party; or (4) which might adversely affect the priority of the Liens created by this Borrower Loan Agreement or any of the Borrower Loan Documents or the Funding Loan Documents.

**Section 4.1.46 Payment of Taxes.** Except as previously disclosed to Funding Lender in writing: (i) all tax returns and reports of Borrower, General Partner and Guarantor required to be filed have been timely filed, and all taxes, assessments, fees and other governmental charges upon Borrower, General Partner and Guarantor, and upon their respective properties, assets, income and franchises, which are due and payable have been paid when due and payable; and (ii) Borrower knows of no proposed tax assessment against it or against General Partner or Guarantor that would be material to the condition (financial or otherwise) of Borrower, General Partner or Guarantor, and neither Borrower, nor General Partner have contracted with any Government Authority in connection with such taxes.

**Section 4.1.47 Rights to Project Agreements and Licenses.** Borrower is the legal and beneficial owner of all rights in and to the Plans and Specifications and all existing Project Agreements and Licenses, and will be the legal and beneficial owner of all rights in and to all future Project Agreements and Licenses. Borrower's interest in the Plans and Specifications and all Project Agreements and Licenses is not subject to any present claim (other than under the Borrower Loan Documents and the Funding Loan Documents or as otherwise approved by Funding Lender in its sole discretion), set-off or deduction other than in the ordinary course of business.

**Section 4.1.48 Patriot Act Compliance.** Borrower is not now, nor has ever been (i) listed on any Government Lists (as defined below), (ii) a person who has been determined by a Governmental Authority to be subject to the prohibitions contained in Presidential Executive Order No. 13224 (Sept. 23, 2001) or any other similar prohibitions contained in the rules and regulations of OFAC or in any enabling legislation or other Presidential Executive Orders in respect thereof, (iii) indicted for or convicted of any felony involving a crime or crimes of moral turpitude or for any Patriot Act Offense, or (iv) under investigation by any Governmental Authority for alleged criminal activity. For purposes hereof, the term "Patriot Act Offense" shall mean any violation of the criminal laws of the United States of America or of any of the several states, or that would be a criminal violation if committed within the jurisdiction of the United States of America or any of the several states, relating to terrorism or the laundering of monetary instruments, including any offense under (A) the criminal laws against terrorism; (B) the criminal laws against money laundering, (C) Bank Representative Secrecy Act, as amended, (D) the Money Laundering Control Act of 1986, as amended, or (E) the Patriot Act. "Patriot Act Offense" also includes the crimes of conspiracy to commit, or aiding and abetting another to commit, a Patriot Act Offense. For purposes hereof, the term "Government Lists" shall mean (1) the Specially Designated Nationals and Blocked Persons Lists maintained by the Office of Foreign Assets Control ("OFAC"), (2) any other list of terrorists, terrorist organizations or narcotics traffickers maintained pursuant to any of the Rules and Regulations of OFAC that Funding Lender notified Borrower in writing is now included in "Government Lists", or (3) any similar lists maintained by the United States Department of State, the United States Department of Commerce or any other Government Authority or pursuant to any Executive Order of the President of the United States of America that Funding Lender notified Borrower in writing is now included in "Government Lists".

**Section 4.1.49 Rent Schedule.** Intentionally omitted.

**Section 4.1.50 Other Documents.** Each of the representations and warranties of Borrower or General Partner contained in any of the other Borrower Loan Documents or the Funding Loan Documents or Related Documents is true and correct in all material respects (or, in the case of representations or warranties contained in any of the other Borrower Loan Documents or Funding Loan Documents or Related Documents that speak as of a particular date, were true and correct in all material respects as of such date). All of such representations and warranties are incorporated herein for the benefit of Funding Lender.

**Section 4.1.51 Subordinate Loan Documents.** The Subordinate Loan Documents are in full force and effect and the Borrower has paid all commitment fees and other amounts due and payable to the Subordinate Lender(s) thereunder. There exists no material violation of or material default by the Borrower under, and no event has occurred which, upon the giving of notice or the passage of time, or both, would constitute a material default under the Subordinate Loan Documents.

**Section 4.1.52 CC&Rs.** The CC&Rs are in full force and effect and the Borrower has complied with the terms and conditions under the CC&Rs. There exists no material violation of or material default by the Borrower under, and no event has occurred which, upon the giving of notice or the passage of time, or both, would constitute a material default under the CC&Rs.

**Section 4.2. Survival of Representations and Covenants.** All of the representations and warranties in Section 4.1 hereof and elsewhere in the Borrower Loan Documents (i) shall survive for so long as any portion of the Borrower Payment Obligations remains due and owing and (ii) shall be deemed to have been relied upon by the Governmental Lender and the Servicer notwithstanding any investigation heretofore or hereafter made by the Governmental Lender or the Servicer or on its or their behalf, provided, however, that the representations, warranties and covenants set forth in Section 4.1.31 hereof shall survive in perpetuity and shall not be subject to the exculpation provisions of Section 11.1 hereof.

#### **ARTICLE V AFFIRMATIVE COVENANTS**

During the term of this Borrower Loan Agreement, the Borrower hereby covenants and agrees with the Governmental Lender, the Funding Lender and the Servicer that:

**Section 5.1. Existence.** The Borrower shall (i) do or cause to be done all things necessary to preserve, renew and keep in full force and effect its existence and its material rights, and franchises, (ii) continue to engage in the business presently conducted by it, (iii) obtain and maintain all material Licenses, and (iv) qualify to do business and remain in good standing under the laws of the State.

**Section 5.2. Taxes and Other Charges.** The Borrower shall pay all Taxes and Other Charges as the same become due and payable and prior to their becoming delinquent in accordance with the Security Instrument, except to the extent that the amount, validity or application thereof is being contested in good faith as permitted by the Security Instrument.

The Borrower covenants to pay all taxes and Other Charges of any type or character charged to the Funding Lender affecting the amount available to the Funding Lender from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including taxes and Other Charges assessed or levied by any public agency or governmental authority of whatsoever character having power to levy taxes or assessments) but excluding franchise taxes based upon the capital and/or income of the Funding Lender and taxes based upon or measured by the net income of the Funding Lender; provided, however, that the Borrower shall have the right to protest any such taxes or Other Charges and to require the Funding Lender, at the Borrower's expense, to protest and contest any such taxes or Other Charges levied upon them and that the Borrower shall have the right to withhold payment of any such taxes or Other Charges pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Funding Lender. This obligation shall remain valid and in effect notwithstanding repayment of the Borrower Loan hereunder or termination of this Borrower Loan Agreement.

**Section 5.3. Repairs; Maintenance and Compliance; Physical Condition.** The Borrower shall cause the Project to be maintained in a good, habitable and safe (so as to not threaten the health or

safety of the Project's tenants or their invited guests) condition and repair (reasonable wear and tear excepted) as set forth in the Security Instrument and shall not remove, demolish or materially alter the Improvements or Equipment (except for removal of aging or obsolete equipment or furnishings in the normal course of business), except as provided in the Security Instrument.

**Section 5.4. Litigation.** The Borrower shall give prompt Written Notice to the Governmental Lender, the Funding Lender and the Servicer of any litigation, governmental proceedings or claims or investigations regarding an alleged actual violation of a Legal Requirement pending or, to the Borrower's knowledge, threatened against the Borrower which might materially adversely affect the Borrower's condition (financial or otherwise) or business or the Project.

**Section 5.5. Performance of Other Agreements.** The Borrower shall observe and perform in all material respects each and every term to be observed or performed by it pursuant to the terms of any agreement or instrument materially affecting or pertaining to the Project.

**Section 5.6. Notices.** The Borrower shall promptly advise the Governmental Lender, the Funding Lender and the Servicer of (i) any Material Adverse Change in the Borrower's financial condition, assets, properties or operations other than general changes in the real estate market, (ii) any fact or circumstance affecting the Borrower or the Project that materially and adversely affects the Borrower's ability to meet its obligations hereunder or under any of the other Borrower Loan Document to which it is a party in a timely manner, or (iii) the occurrence of any Potential Default or Event of Default of which the Borrower has knowledge. If the Borrower becomes subject to federal or state securities law filing requirements, the Borrower shall cause to be delivered to the Governmental Lender, the Funding Lender and the Servicer any Securities and Exchange Commission or other public filings, if any, of the Borrower within two (2) Business Days of such filing.

**Section 5.7. Cooperate in Legal Proceedings.** The Borrower shall cooperate fully with the Governmental Lender, the Funding Lender and the Servicer with respect to, and permit the Governmental Lender, the Funding Lender and the Servicer at their option, to participate in, any proceedings before any Governmental Authority that may in any way affect the rights of the Governmental Lender, the Funding Lender and/or the Servicer under any Borrower Loan Document or Funding Loan Document.

**Section 5.8. Further Assurances.** The Borrower shall, at the Borrower's sole cost and expense (except as provided in Section 9.1 hereof), (i) furnish to the Servicer and the Funding Lender all instruments, documents, boundary surveys, footing or foundation surveys (to the extent that Borrower's construction or renovation of the Project alters any existing building foundations or footprints), certificates, plans and specifications, appraisals, title and other insurance reports and agreements, reasonably requested by the Servicer or the Funding Lender for the better and more efficient carrying out of the intents and purposes of the Borrower Loan Documents and the Funding Loan Documents; (ii) execute and deliver to the Servicer and the Funding Lender such documents, instruments, certificates, assignments and other writings, and do such other acts necessary or desirable, to evidence, preserve and/or protect the collateral at any time securing or intended to secure the Borrower Loan, as the Servicer and the Funding Lender may reasonably require from time to time; (iii) do and execute all and such further lawful and reasonable acts, conveyances and assurances for the better and more effective carrying out of the intents and purposes of the Borrower Loan Documents and the Funding Loan Documents, as the Servicer or the Funding Lender shall reasonably require from time to time; provided, however, with respect to clauses (i)-(iii) above, the Borrower shall not be required to do anything that has the effect of (A) changing the essential economic terms of the Borrower Loan or (B) imposing upon the Borrower greater personal liability under the Borrower Loan Documents and the Funding Loan Documents; and (iv) upon the Servicer's or the Funding Lender's request therefor given from time to time after the occurrence of any Potential Default or Event of Default for so long as such Potential Default or Event of

Default, as applicable, is continuing pay for (a) reports of UCC, federal tax lien, state tax lien, judgment and pending litigation searches with respect to the Borrower and (b) searches of title to the Project, each such search to be conducted by search firms reasonably designated by the Servicer or the Funding Lender in each of the locations reasonably designated by the Servicer or the Funding Lender.

**Section 5.9. Delivery of Financial Information.** After notice to the Borrower of a Secondary Market Disclosure Document, the Borrower shall, concurrently with any delivery to the Funding Lender or the Servicer, deliver copies of all financial information required under Article IX.

**Section 5.10. Environmental Matters.** So long as the Borrower owns or is in possession of the Project, the Borrower shall (a) keep the Project in compliance with all federal and state laws, regulations and ordinances relating to the use, storage, removal, remediation and disposition of environmentally hazardous materials (“Hazardous Materials Laws”), (b) promptly notify the Funding Lender and the Servicer if the Borrower shall become aware that any environmentally hazardous materials are on or near the Project in violation of Hazardous Materials Laws, and (c) commence and thereafter diligently prosecute to completion all remedial work necessary with respect to the Project required under any Hazardous Material Laws, in each case as set forth in the Security Instrument or the Agreement of Environmental Indemnification.

**Section 5.11. Governmental Lender’s and Funding Lender’s Fees.** The Borrower covenants to pay the reasonable fees and expenses of the Governmental Lender (including the Ongoing Governmental Lender Fee) and the Funding Lender or any agents, attorneys, accountants, consultants selected by the Governmental Lender or the Funding Lender to act on its behalf in connection with this Borrower Loan Agreement and the other Borrower Loan Documents, the Regulatory Agreement and the Funding Loan Documents, including, without limitation, any and all reasonable expenses incurred in connection with the making of the Borrower Loan or in connection with any litigation which may at any time be instituted involving the Borrower Loan, this Borrower Loan Agreement, the other Borrower Loan Documents, the Regulatory Agreement and the Funding Loan Documents or any of the other documents contemplated thereby, or in connection with the reasonable supervision or inspection of the Borrower, its properties, assets or operations or otherwise in connection with the administration of the foregoing. This obligation shall remain valid and in effect notwithstanding repayment of the Borrower Loan hereunder or termination of this Borrower Loan Agreement.

**Section 5.12. Estoppel Statement.** The Borrower shall furnish to the Funding Lender or the Servicer for the benefit of the Funding Lender or the Servicer within ten (10) days after request by the Funding Lender and the Servicer, with a statement, duly acknowledged and certified, setting forth, as applicable, with respect to the Borrower Note, (i) the unpaid principal of the Borrower Note, (ii) the applicable Interest Rate, (iii) the date installments of interest and/or principal were last paid, (iv) any offsets or defenses to the payment of the Borrower Payment Obligations, and (v) that the Borrower Loan Documents and the Funding Loan Documents to which the Borrower is a party are valid, legal and binding obligations of the Borrower and have not been modified or, if modified, giving particulars of such modification, and no Event of Default exists thereunder or specify any Event of Default that does exist thereunder. The Borrower shall use commercially reasonable efforts to furnish to the Funding Lender or the Servicer, within 30 days of a request by the Funding Lender or Servicer, tenant estoppel certificates from each commercial tenant at the Project, if any, in form and substance reasonably satisfactory to the Funding Lender and the Servicer; provided that the Funding Lender and the Servicer shall not make such requests more frequently than twice in any year.

**Section 5.13. Defense of Actions.** The Borrower shall appear in and defend any action or proceeding purporting to affect the security for this Borrower Loan Agreement hereunder or under the Borrower Loan Documents and the Funding Loan Documents, and shall pay, in the manner required by

Section 2.4 hereof, all costs and expenses, including the cost of evidence of title and attorneys' fees, in any such action or proceeding in which Funding Lender may appear. If the Borrower fails to perform any of the covenants or agreements contained in this Borrower Loan Agreement or any other Borrower Loan Document, or if any action or proceeding is commenced that is not diligently defended by the Borrower which affects the Funding Lender's interest in the Project or any part thereof, including eminent domain, code enforcement or proceedings of any nature whatsoever under any Federal or state law, whether now existing or hereafter enacted or amended, then the Funding Lender may make such appearances, disburse such sums and take such action as the Funding Lender deems necessary or appropriate to protect its interests. Such actions include disbursement of attorneys' fees, entry upon the Project to make repairs or take other action to protect the security of the Project, and payment, purchase, contest or compromise of any encumbrance, charge or lien which in the judgment of Funding Lender appears to be prior or superior to the Borrower Loan Documents or the Funding Loan Documents. The Funding Lender shall have no obligation to do any of the above. The Funding Lender may take any such action without notice to or demand upon the Borrower. No such action shall release the Borrower from any obligation under this Borrower Loan Agreement or any of the other Borrower Loan Documents or Funding Loan Documents. In the event (i) that the Security Instrument is foreclosed in whole or in part or that any Borrower Loan Document is put into the hands of an attorney for collection, suit, action or foreclosure, or (ii) of the foreclosure of any mortgage, deed of trust or deed to secure debt prior to or subsequent to the Security Instrument or any Borrower Loan Document in which proceeding the Funding Lender is made a party or (iii) of the bankruptcy of the Borrower or an assignment by the Borrower for the benefit of its creditors, the Borrower shall be chargeable with and agrees to pay all costs of collection and defense, including actual attorneys' fees in connection therewith and in connection with any appellate proceeding or post-judgment action involved therein, which shall be due and payable together with all required service or use taxes.

**Section 5.14. Expenses.** The Borrower shall pay all reasonable expenses incurred by the Governmental Lender, the Funding Lender and the Servicer (except as provided in Section 9.1 hereof) in connection with the Borrower Loan and the Funding Loan, including reasonable fees and expenses of the Governmental Lender's, the Funding Lender's and the Servicer's attorneys, environmental, engineering and other consultants, and fees, charges or taxes for the recording or filing of Borrower Loan Documents and the Funding Loan Documents. The Borrower shall pay or cause to be paid all reasonable expenses of the Governmental Lender, the Funding Lender and the Servicer (except as provided in Section 9.1 hereof) in connection with the issuance or administration of the Borrower Loan and the Funding Loan, including audit costs, inspection fees, settlement of condemnation and casualty awards, and premiums for title insurance and endorsements thereto. The Borrower shall, upon request, promptly reimburse the Governmental Lender, the Funding Lender and the Servicer for all reasonable amounts expended, advanced or incurred by the Governmental Lender, the Funding Lender and the Servicer to collect the Borrower Notes, or to enforce the rights of the Governmental Lender, the Funding Lender and the Servicer under this Borrower Loan Agreement or any other Borrower Loan Document, or to defend or assert the rights and claims of the Governmental Lender, the Funding Lender and the Servicer under the Borrower Loan Documents and the Funding Loan Documents arising out of an Event of Default or with respect to the Project (by litigation or other proceedings) arising out of an Event of Default, which amounts will include all court costs, attorneys' fees and expenses, fees of auditors and accountants, and investigation expenses as may be reasonably incurred by the Governmental Lender, the Funding Lender and the Servicer in connection with any such matters (whether or not litigation is instituted), together with interest at the Default Rate on each such amount from the Date of Disbursement until the date of reimbursement to the Governmental Lender, the Funding Lender and the Servicer, all of which shall constitute part of the Borrower Loan and the Funding Loan and shall be secured by the Borrower Loan Documents and the Funding Loan Documents. The obligations and liabilities of the Borrower under this Section 5.14 shall survive the Term of this Borrower Loan Agreement and the exercise by the Governmental Lender, the Funding Lender or the Servicer, as the case may be, of any of its rights or

remedies under the Borrower Loan Documents and the Funding Loan Documents, including the acquisition of the Project by foreclosure or a conveyance in lieu of foreclosure. Notwithstanding the foregoing, the Borrower shall not be obligated to pay amounts incurred as a result of the gross negligence or willful misconduct of any other party, and any obligations of the Borrower to pay for environmental inspections or audits will be governed by the Agreement of Environmental Indemnification.

**Section 5.15. Indemnity.** In addition to its other obligations hereunder, and in addition to any and all rights of reimbursement, indemnification, subrogation and other rights of Governmental Lender or Funding Lender pursuant hereto and under law or equity, to the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Governmental Lender, the Funding Lender, the Servicer, the Beneficiary Parties, and each of their respective officers, directors, employees, attorneys and agents (each an "Indemnified Party"), against any and all losses, damages, claims, actions, liabilities, reasonable costs and expenses of any nature, kind or character (including, without limitation, reasonable attorneys' fees, litigation and court costs, amounts paid in settlement (to the extent that the Borrower has consented to such settlement) and amounts paid to discharge judgments) (hereinafter, the "Liabilities") to which the Indemnified Parties, or any of them, may become subject under federal or state securities laws or any other statutory law or at common law or otherwise, to the extent arising out of or based upon or in any way relating to:

(a) The Borrower Loan Documents and the Funding Loan Documents or the execution or amendment thereof or in connection with transactions contemplated thereby, including the sale, transfer or resale of the Borrower Loan or the Funding Loan, except with respect to any Secondary Market Disclosure Document (other than any Borrower's obligations under Article IX);

(b) Any act or omission of the Borrower or any of its agents, contractors, servants, employees or licensees in connection with the Borrower Loan, the Funding Loan or the Project, the operation of the Project, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, construction, installation of, the Project or any part thereof;

(c) Any lien (other than a Permitted Lien) or charge upon payments by the Borrower to the Governmental Lender or the Funding Lender hereunder, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and Other Charges imposed on the Governmental Lender or the Funding Lender in respect of any portion of the Project;

(d) Any violation of any environmental law, rule or regulation with respect to, or the release of any toxic substance from, the Project or any part thereof during the period in which the Borrower is in possession or control of the Project, except as disclosed in the Prior Environmental Disclosures;

(e) The enforcement of, or any action taken by the Governmental Lender or the Funding Lender related to remedies under, this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents;

(f) [Reserved];

(g) Any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact by the Borrower made in the course of Borrower

applying for the Borrower Loan or the Funding Loan or contained in any of the Borrower Loan Documents or Funding Loan Documents to which the Borrower is a party;

(h) Any Determination of Taxability;

(i) Any breach (or alleged breach) by Borrower of any representation, warranty or covenant made in or pursuant to this Borrower Loan Agreement or in connection with any written or oral representation, presentation, report, appraisal or other information given or delivered by Borrower, General Partner, Guarantor or their Affiliates to Governmental Lender, the Funding Lender, Servicer or any other Person in connection with Borrower's application for the Borrower Loan and the Funding Loan (including, without limitation, any breach or alleged breach by Borrower of any agreement with respect to the provision of any substitute credit enhancement);

(j) any failure (or alleged failure) by Borrower, the Funding Lender or Governmental Lender to comply with applicable federal and state laws and regulations pertaining to the making of the Borrower Loan and the Funding Loan;

(k) the Project, or the condition, occupancy, use, possession, conduct or management of, or work done in or about, or from the planning, design, acquisition, installation, construction of, the Project or any part thereof; or

(l) the use of the proceeds of the Borrower Loan and the Funding Loan,

except in the case of the foregoing indemnification of the Governmental Lender, the Funding Lender or the Servicer or any related Indemnified Party, to the extent such damages are caused by the gross negligence or willful misconduct of such Indemnified Party.

Without limiting the foregoing, to the fullest extent permitted by law, the Borrower agrees to indemnify, hold harmless and defend the Governmental Lender, and each of its officers, officials, directors, employees, attorneys and agents ("City Indemnified Parties") against any Liability to which the City Indemnified Parties, or any of them, may become subject under federal or state securities laws or any other statutory law or at common law or otherwise, to the extent arising out of or based upon or in any way relating to any declaration of taxability of interest on the Funding Loan or allegations (or regulatory inquiry) that interest on the Funding Loan is taxable for federal income tax purposes, except to the extent such damages are caused by the gross negligence or willful misconduct of a City Indemnified Party.

Notwithstanding anything herein to the contrary, the Borrower's indemnification obligations to the parties specified in Section 9.1.4 hereof with respect to any securitization or Secondary Market Transaction described in Article IX hereof shall be limited to the indemnity set forth in Section 9.1.4 hereof. In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the Indemnified Party (which notice shall be timely given so as not to materially impair the Borrower's right to defend), shall assume the investigation and defense thereof, including the employment of counsel reasonably approved by the Indemnified Party, and shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement, which approval shall not be unreasonably withheld. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and to participate in the investigation and defense thereof; provided, however, the Governmental Lender shall have the absolute right to employ separate counsel at the expense of the Borrower. The Borrower shall pay the reasonable fees and expenses of such separate counsel; provided, however, that such Indemnified Party may only employ separate counsel at

the expense of the Borrower if and only if in such Indemnified Party's good faith judgment (based on the advice of counsel) a conflict of interest exists or could arise by reason of common representation, except that the Borrower shall always pay the reasonable fees and expenses of the Governmental Lender's separate counsel.

Notwithstanding any transfer of the Project to another owner in accordance with the provisions of this Borrower Loan Agreement or the Regulatory Agreement, the Borrower shall remain obligated to indemnify each Indemnified Party pursuant to this Section 5.15 if such subsequent owner fails to indemnify any party entitled to be indemnified hereunder, unless the Governmental Lender and the Funding Lender have consented to such transfer and to the assignment of the rights and obligations of the Borrower hereunder.

The rights of any persons to indemnity and the right to payment of fees and reimbursement of expenses hereunder shall survive the final payment or defeasance of the Borrower Loan and the Funding Loan and in the case of the Servicer, any resignation or removal. The provisions of this Section 5.15 shall survive the termination of this Borrower Loan Agreement.

Nothing in this Section 5.15 shall in any way limit the Borrower's indemnification and other payment obligations set forth in the Regulatory Agreement.

**Section 5.16. No Warranty of Condition or Suitability by the Governmental Funding Lender.** Neither the Governmental Lender nor the Funding Lender makes any warranty, either express or implied, as to the condition of the Project or that it will be suitable for the Borrower's purposes or needs.

**Section 5.17. Right of Access to the Project.** The Borrower agrees that the Governmental Lender, the Funding Lender, the Servicer and the Construction Consultant, and their duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right, but no obligation at all reasonable times during business hours and upon reasonable notice, to enter onto the Land (a) to examine, test and inspect the Project without material interference or prejudice to the Borrower's operations and (b) to perform such work in and about the Project made necessary by reason of the Borrower's default under any of the provisions of this Borrower Loan Agreement. The Governmental Lender, the Funding Lender, the Servicer, and their duly authorized agents, attorneys, accountants and representatives shall also be permitted, without any obligation to do so, at all reasonable times and upon reasonable notice during business hours, to examine the books and records of the Borrower with respect to the Project.

**Section 5.18. Notice of Default.** The Borrower will advise the Governmental Lender, the Funding Lender, and the Servicer promptly in writing of the occurrence of any Potential Default or Event of Default hereunder, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect thereto.

**Section 5.19. Covenant with Governmental Lender and Funding Lender.** The Borrower agrees that this Borrower Loan Agreement is executed and delivered in part to induce the purchase by others of the Governmental Lender Note and, accordingly, all covenants and agreements of the Borrower contained in this Borrower Loan Agreement are hereby declared to be for the benefit of the Governmental Lender, the Funding Lender and any lawful owner, holder or pledgee of the Borrower Note or the Governmental Lender Note from time to time.

**Section 5.20. Obligation of the Borrower to Construct the Project.** The Borrower shall proceed with reasonable dispatch to construct, as appropriate, and equip the Project. If the proceeds of the Borrower Loan, together with the Other Borrower Moneys, available to be disbursed to the Borrower

are not sufficient to pay the costs of such construction, as appropriate, and equipping, the Borrower shall pay such additional costs from its own funds. The Borrower shall not be entitled to any reimbursement from the Governmental Lender, the Funding Lender or the Servicer in respect of any such costs or to any diminution or abatement in the repayment of the Borrower Loan. The Governmental Lender and the Funding Lender shall not be liable to the Borrower or any other person if for any reason the Project is not completed or if the proceeds of the Borrower Loan are insufficient to pay all costs of the Project. The Governmental Lender and the Funding Lender do not make any representation or warranty, either express or implied, that moneys, if any, which will be made available to the Borrower will be sufficient to complete the Project, and the Governmental Lender and the Funding Lender shall not be liable to the Borrower or any other person if for any reason the Project is not completed.

**Section 5.21. Maintenance of Insurance.** Borrower will maintain the insurance required by the Security Instrument or, as applicable, the Construction Funding Agreement.

**Section 5.22. Information; Statements and Reports.** Borrower shall furnish or cause to be furnished to Governmental Lender and Funding Lender:

(a) **Notice of Default.** As soon as possible, and in any event not later than five (5) Business Days after the occurrence of any Event of Default or Potential Default, a statement of an Authorized Representative of Borrower describing the details of such Event of Default or Potential Default and any curative action Borrower proposes to take;

(b) **Financial Statements; Rent Rolls.** In the manner and to the extent required under the Security Instrument or, as applicable, the Construction Funding Agreement, such financial statements, expenses statements, rent rolls, reports and other financial documents and information as required by the Security Instrument and the other Borrower Loan Documents and Funding Loan Documents, in the form and within the time periods required therein;

(c) **General Partner.** As soon as available and in any event within one hundred twenty (120) days after the end of each fiscal year of General Partner, copies of the financial statements of General Partner as of such date, prepared in substantially the form previously delivered to the Governmental Lender and Funding Lender and in a manner consistent therewith, or in such form (which may include a form prepared in accordance with GAAP) as Funding Lender may reasonably request;

(d) **Leasing Reports.** Prior to the Conversion Date, On a monthly basis (and in any event within fifteen (15) days after the end of each Calendar Month), a report of all efforts made by Borrower, if any, to lease all or any portion of the Project during such Calendar Month and on a cumulative basis since Project inception, which report shall be prepared and delivered by Borrower, shall be in form and substance satisfactory to Funding Lender, and shall, if requested by Funding Lender, be supported by copies of letters of intent, leases or occupancy agreements, as applicable;

(e) **Audit Reports.** Promptly upon receipt thereof, copies of all reports, if any, submitted to Borrower by independent public accountants in connection with each annual, interim or special audit of the financial statements of Borrower made by such accountants, including the comment letter submitted by such accountants to management in connection with their annual audit;

(f) **Notices; Certificates or Communications.** Immediately upon giving or receipt thereof, copies of any notices, certificates or other communications delivered at the Project or to

Borrower or General Partner naming Governmental Lender or Funding Lender as addressee or which could reasonably be deemed to affect the structural integrity of the Project or the ability of Borrower to perform its obligations under the Borrower Loan Documents and the Funding Loan Documents;

(g) Certification of Non-Foreign Status. Promptly upon request of Funding Lender from time to time, a Certification of Non-Foreign Status, executed on or after the date of such request by Funding Lender;

(h) Compliance Certificates. Together with each of the documents required pursuant to Section 5.22(b) hereof submitted by or on behalf of Borrower, a statement, in form and substance satisfactory to Funding Lender and certified by an Authorized Borrower Representative, to the effect that Borrower is in compliance with all covenants, terms and conditions applicable to Borrower, under or pursuant to the Borrower Loan Documents and the Funding Loan Documents and under or pursuant to any other Debt owing by Borrower to any Person, and disclosing any noncompliance therewith, and any Event of Default or Potential Default, and describing the status of Borrower's actions to correct such noncompliance, Event of Default or Potential Default, as applicable; and

(i) Other Items and Information. Such other information and documentation concerning the assets, business, financial condition, operations, property, prospects and results of operations of Borrower, General Partner, Guarantor or the Project, as Funding Lender or Governmental Lender reasonably requests from time to time, including, without limitation such other information and documentation as may be required under the Forward Bond Purchase Agreement as conditions to Conversion.

**Section 5.23. Additional Notices.** Borrower will, promptly after becoming aware thereof, give notice to Funding Lender and the Governmental Lender of:

(a) any Lien affecting the Project, or any part thereof, other than Liens expressly permitted under this Borrower Loan Agreement;

(b) any Legal Action which is instituted by or against Borrower, General Partner or Guarantor, or any Legal Action which is threatened against Borrower, General Partner or Guarantor which, in any case, if adversely determined, could have a material adverse effect upon the business, operations, properties, prospects, assets, management, ownership or condition (financial or otherwise) of Borrower, General Partner, Guarantor or the Project;

(c) any Legal Action which constitutes an Event of Default or a Potential Default or a default under any other Contractual Obligation to which Borrower, General Partner or Guarantor is a party or by or to which Borrower, General Partner or Guarantor, or any of their respective properties or assets, may be bound or subject, which default would have a material adverse effect on the business, operations, assets (including the Project), condition (financial or otherwise) or prospects of Borrower, General Partner or Guarantor, as applicable;

(d) any default, alleged default or potential default on the part of Borrower under any of the CC&R's (together with a copy of each notice of default, alleged default or potential default received from any other party thereto);

(e) any notice of default, alleged default or potential default on the part of Borrower received from any tenant or occupant of the Project under or relating to its lease or occupancy

agreement (together with a copy of any such notice), if, in the aggregate, notices from at least fifteen percent (15%) of the tenants at the Project have been received by Borrower with respect to, or alleging, the same default, alleged default or potential default;

(f) any change or contemplated change in (i) the location of Borrower's, or General Partner's executive headquarters or principal place of business; (ii) the legal, trade, or fictitious business names used by Borrower or General Partner; or (iii) the nature of the trade or business of Borrower; and

(g) any default, alleged default or potential default on the part of any general or limited partner (including, without limitation, General Partner and the Equity Investor) under the Partnership Agreement.

**Section 5.24. Compliance with Other Agreements; Legal Requirements.**

(a) Borrower shall timely perform and comply with, and shall cause General Partner to timely perform and comply with the covenants, agreements, obligations and restrictions imposed on them under the Partnership Agreement, and Borrower shall not do or permit to be done anything to impair any such party's rights or interests under any of the foregoing.

(b) Borrower will comply and, to the extent it is able, will require others to comply with, all Legal Requirements of all Governmental Authorities having jurisdiction over the Project or construction of the Improvements, and will furnish Funding Lender with reports of any official searches for or notices of violation of any requirements established by such Governmental Authorities. Borrower will comply and, to the extent it is able, will require others to comply, with applicable CC&R's and all restrictive covenants and all obligations created by private contracts and leases which affect ownership, construction, equipping, fixturing, use or operation of the Project, and all other agreements requiring a certain percentage of the Units to be rented to persons of low or moderate income. The Improvements, when completed, shall comply with all applicable building, zoning and other Legal Requirements, and will not violate any restrictions of record against the Project or the terms of any other lease of all or any portion of the Project. Funding Lender shall at all times have the right to audit, at Borrower's expense, Borrower's compliance with any agreement requiring a certain percentage of the Units to be rented to persons of low or moderate income, and Borrower shall supply all such information with respect thereto as Funding Lender may request and otherwise cooperate with Funding Lender in any such audit. Without limiting the generality of the foregoing, Borrower shall properly obtain, comply with and keep in effect (and promptly deliver copies to Funding Lender of) all permits, licenses and approvals which are required to be obtained from Governmental Authorities in order to construct, occupy, operate, market and lease the Project.

**Section 5.25. Completion and Maintenance of Project.** Borrower shall cause the construction, as the case may be, of the Improvements, to be prosecuted with diligence and continuity and completed substantially in accordance with the Plans and Specifications, and in accordance with the Construction Funding Agreement, free and clear of any liens or claims for liens (but without prejudice to Borrower's rights of contest under Section 10.16 hereof) ("Completion") on or before the Completion Date. Borrower shall thereafter maintain the Project and the related and appurtenant uses as a residential apartment complex in good order and condition, ordinary wear and tear excepted. A maintenance program shall be in place at all times to assure the continuation of first class maintenance, which shall mean and be no less than the highest quality of maintenance provided by the Property General Partner for similarly situated properties managed by the Property General Manager.

**Section 5.26. Fixtures.** Borrower shall deliver to Funding Lender, on demand, any contracts, bills of sale, statements, receipted vouchers or agreements under which Borrower or any other Person claims title to any materials, fixtures or articles incorporated into the Improvements.

**Section 5.27. Income from Project.** Borrower shall first apply all Gross Income to Expenses of the Project, including all amounts then required to be paid under the Borrower Loan Documents and the Funding Loan Documents and the funding of all sums necessary to meet the Replacement Reserve Fund Requirement before using or applying such Gross Income for any other purpose. Prior to Conversion, Borrower shall not make or permit any distributions or other payments of Net Operating Income to its partners, shareholders or members, as applicable, in each case, without the prior Written Consent of Funding Lender (which prohibition shall not be in force after Conversion).

**Section 5.28. Leases and Occupancy Agreements.**

(a) Lease Approval.

(i) Borrower shall submit to Funding Lender Borrower's standard form of tenant lease (the "Tenant Lease Form") for use in the Project. Borrower shall not materially modify the Tenant Lease Form without Funding Lender's prior Written Consent in each instance, which consent shall not be unreasonably withheld or delayed. Borrower may enter into leases of space within the Improvements (and amendments to such leases) in the ordinary course of business with bona fide third party tenants without Funding Lender's prior Written Consent if:

(A) The Tenant Lease Form is a Permitted Lease, and is executed in the form previously approved by Funding Lender without material modification;

(B) Borrower, acting in good faith following the exercise of due diligence, has determined that the tenant meets requirements imposed under any applicable CC&R and is financially capable of performing all of its obligations under the Tenant Lease Form; and

(C) The Tenant Lease Form conforms to the Rent Schedule approved by the Funding Lender and reflects an arm's-length transaction, subject to the requirement that the Borrower comply with any applicable CC&R.

(ii) If any Event of Default has occurred and is continuing, Funding Lender may make written demand on Borrower to submit all future leases for Funding Lender's approval prior to execution. Borrower shall comply with any such demand by Funding Lender.

(iii) No approval of any lease by Funding Lender shall be for any purpose other than to protect Funding Lender's security for the Borrower Loan and to preserve Funding Lender's rights under the Borrower Loan Documents and the Funding Loan Documents. No approval by Funding Lender shall result in a waiver of any default of Borrower. In no event shall any approval by Funding Lender of a lease be a representation of any kind with regard to the lease or its enforceability, or the financial capacity of any tenant or guarantor.

(b) **Obligations.** Borrower shall perform all obligations required to be performed by it as landlord under any lease affecting any part of the Project or any space within the Improvements.

(c) **Leasing and Marketing Agreements.** Except as may be contemplated in the Management Agreement with the Property General Manager, Borrower shall not without the approval of Funding Lender enter into any leasing or marketing agreement and Funding Lender reserves the right to approve the qualifications of any marketing or leasing agent.

**Section 5.29. Project Agreements and Licenses.** To the extent not heretofore delivered to Funding Lender, Borrower will furnish to Funding Lender, as soon as available, true and correct copies of all Project Agreements and Licenses and the Plans and Specifications, together with assignments thereof to Funding Lender and consents to such assignments where required by Funding Lender, all in form and substance acceptable to Funding Lender. Neither Borrower nor General Partner has assigned or granted, or will assign or grant, a security interest in any of the Project Agreements and Licenses, other than to Funding Lender.

**Section 5.30. Payment of Debt Payments.** In addition to its obligations under the Borrower Note, Borrower will (i) duly and punctually pay or cause to be paid all principal of and interest on any Debt of Borrower as and when the same become due on or before the due date; (ii) comply with and perform all conditions, terms and obligations of other instruments or agreements evidencing or securing such Debt; (iii) promptly inform Funding Lender of any default, or anticipated default, under any such note, agreement, instrument; and (iv) forward to Funding Lender a copy of any notice of default or notice of any event that might result in default under any such note, agreement, instrument, including Liens encumbering the Project, or any portion thereof, which have been subordinated to the Security Instrument (regardless of whether or not permitted under this Borrower Loan Agreement).

**Section 5.31. ERISA.** Borrower will comply, and will cause each of its ERISA Affiliates to comply, in all respects with the provisions of ERISA.

**Section 5.32. Patriot Act Compliance.** Borrower shall use its good faith and commercially reasonable efforts to comply with the Patriot Act and all applicable requirements of Governmental Authorities having jurisdiction over Borrower and/or the Project, including those relating to money laundering and terrorism. Funding Lender shall have the right to audit Borrower's compliance with the Patriot Act and all applicable requirements of Governmental Authorities having jurisdiction over Borrower and/or the Project, including those relating to money laundering and terrorism. In the event that Borrower fails to comply with the Patriot Act or any such requirements of Governmental Authorities, then Funding Lender may, at its option, cause Borrower to comply therewith and any and all costs and expenses incurred by Funding Lender in connection therewith shall be secured by the Security Instrument and shall be immediately due and payable.

**Section 5.33. Funds from Equity Investor.** Borrower shall cause the Equity Investor to fund all installments of the Equity Contributions in the amounts and at the times subject and according to the terms of, and the conditions precedent and adjustments provided for in, the Partnership Agreement.

**Section 5.34. Tax Covenants.** The Borrower further represents, warrants and covenants as follows:

(a) **General.** The Borrower shall not take any action or omit to take any action which, if taken or omitted, respectively, would adversely affect the exclusion of interest on the Governmental Lender Note from gross income (as defined in Section 61 of the Code), for federal

income tax purposes and, if it should take or permit any such action, the Borrower will take all lawful actions that it can take to rescind such action promptly upon having knowledge thereof and that the Borrower will take such action or actions, including amendment of this Borrower Loan Agreement, the Security Instrument and the Regulatory Agreement, as may be necessary, in the opinion of Tax Counsel, to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service applicable to the Governmental Lender Note, the Funding Loan or affecting the Project. Capitalized terms used in this Section 5.34 shall have the respective meanings assigned to them in the Regulatory Agreement or, if not defined therein, in the Funding Loan Agreement. With the intent not to limit the generality of the foregoing, the Borrower covenants and agrees that, prior to the final maturity of the Governmental Lender Note, unless it has received and filed with the Governmental Lender and the Funding Lender a Tax Counsel No Adverse Effect Opinion (other than with respect to interest on any portion of the Governmental Lender Note for a period during which such portion of the Governmental Lender Note is held by a "substantial user" of any facility financed with the proceeds of the Governmental Lender Note or a "related person," as such terms are used in Section 147(a) of the Code), the Borrower will comply with this Section 5.34.

(b) Use of Proceeds. The use of the net proceeds of the Funding Loan at all times will satisfy the following requirements:

(i) Limitation on Net Proceeds. At least 95% of the net proceeds of the Funding Loan (within the meaning of the Code) actually expended shall be used to pay Qualified Project Costs that are costs of a "qualified residential rental project" (within the meaning of Sections 142(a)(7) and 142(d) of the Code) and property that is "functionally related and subordinate" thereto (within the meaning of Sections 1.103-8(a)(3) and 1.103-8(b)(4)(iii) of the Regulations).

(ii) Limit on Costs of Funding. The proceeds of the Funding Loan will be expended for the purposes set forth in this Borrower Loan Agreement and in the Funding Loan Agreement and no portion thereof in excess of two percent of the proceeds of the Funding Loan, within the meaning of Section 147(g) of the Code, will be expended to pay Costs of Funding of the Funding Loan.

(iii) Prohibited Facilities. The Borrower shall not use or permit the use of any proceeds of the Funding Loan or any income from the investment thereof to provide any airplane, skybox, or other private luxury box, health club facility, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(iv) Limitation on Land. Less than 25 percent of the net proceeds of the Funding Loan actually expended will be used, directly or indirectly, for the acquisition of land or an interest therein, nor will any portion of the net proceeds of the Funding Loan be used, directly or indirectly, for the acquisition of land or an interest therein to be used for farming purposes.

(v) Limitation on Existing Facilities. No portion of the net proceeds of the Funding Loan will be used for the acquisition of any existing property or an interest therein unless (A) the first use of such property is pursuant to such acquisition or (B) the expenditures with respect to any building and the equipment therefor equal or exceed 15 percent of the cost of acquiring such building financed with the proceeds of the Funding

Loan (with respect to structures other than buildings, this clause shall be applied by substituting 100 percent for 15 percent). For purposes of the preceding sentence, the term "expenditures" shall have the meaning set forth in Section 147(d)(3) of the Code.

(vi) Accuracy of Information. The information furnished by the Borrower and used by the Governmental Lender in preparing its certifications with respect to Section 148 of the Code and the Borrower's information statement pursuant to Section 149(e) of the Code is accurate and complete as of the date of origination of the Funding Loan.

(vii) Limitation of Project Expenditures. The acquisition, construction and equipping of the Project were not commenced (within the meaning of Section 144(a) of the Code) prior to the 60th day preceding the adoption of the resolution of the Governmental Lender with respect to the Project on September 14, 2023, and no obligation for which reimbursement will be sought from proceeds of the Funding Loan relating to the acquisition, construction or equipping of the Project was paid or incurred prior to 60 days prior to such date, except for permissible "preliminary expenditures", which include architectural, engineering surveying, soil testing, reimbursement bond issuance and similar costs incurred prior to the commencement of construction or acquisition of the Project, and which do not exceed 20% of the aggregate issue price of the Governmental Lender Note.

(viii) Qualified Costs. The Borrower hereby represents, covenants and warrants that the proceeds of the Funding Loan shall be used or deemed used exclusively to pay costs which are (A) capital expenditures (as defined in Section 1.150-1(b) of the Code's regulations) and (B) not made for the acquisition of existing property, to the extent prohibited in Section 147(d) of the Code and that for the greatest number of buildings the proceeds of the Governmental Lender Note shall be deemed allocated on a pro rata basis to each building in the Project and the land on which it is located so that each building and the land on which it is located will have been financed fifty percent (50%) or more by the proceeds of the Governmental Lender Note for the purpose of complying with Section 42(h)(4)(B) of the Code; provided however, the foregoing representation, covenant and warranty is made for the benefit of the Borrower and its partners and neither the Funding Lender nor the Governmental Lender shall have any obligation to enforce this statement nor shall they incur any liability to any person, including without limitation, the Borrower, the partners of the Borrower, any other affiliate of the Borrower or the holders or payees of the Governmental Lender Note and the Borrower Note for any failure to meet the intent expressed in the foregoing representation, covenant and warranty; and provided further, failure to comply with this representation, covenant and warranty shall not constitute a default or event of default under this Borrower Loan Agreement or the Funding Loan Agreement.

(c) Limitation on Maturity. The average maturity of the Governmental Lender Note does not exceed 120 percent of the average reasonably expected economic life of the Project to be financed by the Funding Loan, weighted in proportion to the respective cost of each item comprising the property the cost of which has been or will be financed, directly or indirectly, with the Net Proceeds of the Funding Loan. For purposes of the preceding sentence, the reasonably expected economic life of property shall be determined as of the later of (A) the Closing Date for the Funding Loan or (B) the date on which such property is placed in service (or expected to be placed in service). In addition, land shall not be taken into account in determining the reasonably expected economic life of property.

(d) **No Arbitrage.** The Borrower shall not take any action or omit to take any action with respect to the Gross Proceeds of the Governmental Lender Note or of any amounts expected to be used to pay the principal thereof or the interest thereon which, if taken or omitted, respectively, would cause the Governmental Lender Note to be classified as an "arbitrage bond" within the meaning of Section 148 of the Code. Except as provided in the Funding Loan Agreement and this Borrower Loan Agreement, the Borrower shall not pledge or otherwise encumber, or permit the pledge or encumbrance of, any money, investment, or investment property as security for payment of any amounts due under this Agreement or the Borrower Note relating to the Governmental Lender Note, shall not establish any segregated reserve or similar fund for such purpose and shall not prepay any such amounts in advance of the redemption date of an equal principal amount of the Governmental Lender Note, unless the Borrower has obtained in each case a Tax Counsel No Adverse Effect Opinion with respect to such action, a copy of which shall be provided to the Governmental Lender and the Funding Lender. The Borrower shall not, at any time prior to the final maturity of the Governmental Lender Note, invest or cause any Gross Proceeds to be invested in any investment (or to use Gross Proceeds to replace money so invested), if, as a result of such investment the Yield of all investments acquired with Gross Proceeds (or with money replaced thereby) on or prior to the date of such investment exceeds the Yield of the Governmental Lender Note to the Maturity Date, except as permitted by Section 148 of the Code and Regulations thereunder or as provided in the Regulatory Agreement. The Borrower further covenants and agrees that it will comply with all applicable requirements of said Section 148 and the rules and Regulations thereunder relating to the Governmental Lender Note and the interest thereon, including the employment of a Rebate Analyst acceptable to the Governmental Lender and Funding Lender at all times from and after the Closing Date for the calculation of rebatable amounts to the United States Treasury Department. The Borrower agrees that it will cause the Rebate Analyst to calculate the rebatable amounts not later than forty-five days after the fifth anniversary of the Closing Date and each five years thereafter and not later than forty-five days after the final Computation Date and agrees that the Borrower will pay all costs associated therewith. The Borrower agrees to provide evidence of the employment of the Rebate Analyst satisfactory to the Governmental Lender and Funding Lender.

(e) **No Federal Guarantee.** Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the Borrower shall not take or omit to take any action which would cause the Governmental Lender Note to be "federally guaranteed" within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(f) **Representations.** The Borrower has supplied or caused to be supplied to Tax Counsel all documents, instruments and written information requested by Tax Counsel, and all such documents, instruments and written information supplied by or on behalf of the Borrower at the request of Tax Counsel, which have been reasonably relied upon by Tax Counsel in rendering its opinion with respect to the exclusion from gross income of the interest on the Governmental Lender Note for federal income tax purposes, are true and correct in all material respects, do not contain any untrue statement of a material fact and do not omit to state any material fact necessary to be stated therein in order to make the information provided therein, in light of the circumstances under which such information was provided, not misleading, and the Borrower is not aware of any other pertinent information which Tax Counsel has not requested.

(g) **Qualified Residential Rental Project.** The Borrower hereby covenants and agrees that the Project will be operated as a "qualified residential rental project" within the meaning of Section 142(d) of the Code, on a continuous basis during the longer of the Qualified Project Period (as defined in the Regulatory Agreement) or any period during which any portion of the Governmental Lender Note remains outstanding, to the end that the interest on the Governmental

Lender Note shall be excluded from gross income for federal income tax purposes. The Borrower hereby covenants and agrees, continuously during the Qualified Project Period, to comply with all the provisions of the Regulatory Agreement.

(h) Information Reporting Requirements. The Borrower will comply with the information reporting requirements of Section 149(e)(2) of the Code requiring certain information regarding the Governmental Lender Note to be filed with the Internal Revenue Service within prescribed time limits.

(i) Governmental Lender Note Not a Hedge Bond. The Borrower covenants and agrees that not more than 50% of the proceeds of the Governmental Lender Note will be invested in Nonpurpose Investments having a substantially guaranteed Yield for four years or more within the meaning of Section 149(f)(3)(A)(ii) of the Code, and the Borrower reasonably expects that at least 85% of the spendable proceeds of the Governmental Lender Note will be used to carry out the governmental purposes of the Governmental Lender Note within the three-year period beginning on the Closing Date.

(j) Termination of Restrictions. Although the parties hereto recognize that, subject to the provisions of the Regulatory Agreement, the provisions of this Borrower Loan Agreement shall terminate in accordance with Section 10.14 hereof, the parties hereto recognize that pursuant to the Regulatory Agreement, certain requirements, including the requirements incorporated by reference in this Section, may continue in effect beyond the term hereof.

(k) Public Approval. The Borrower covenants and agrees that the proceeds of the Governmental Lender Note will not be used in a manner that deviates in any substantial degree from the Project described in the written notice of a public hearing regarding the Governmental Lender Note.

(l) 40/60 Test Election. The Borrower and the Governmental Lender hereby elect to apply the requirements of Section 142(d)(1)(B) to the Project. The Borrower hereby represents, covenants and agrees, continuously during the Qualified Project Period, to comply with all the provisions of the Regulatory Agreement.

(m) Modification of Tax Covenants. Subsequent to the origination of the Funding Loan and prior to its payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Funding Loan Agreement), this Section 5.34 hereof may not be amended, changed, modified, altered or terminated except as permitted herein and by the Funding Loan Agreement and with the Written Consent of the Governmental Lender and the Funding Lender. Anything contained in this Agreement or the Funding Loan Agreement to the contrary notwithstanding, the Governmental Lender, the Funding Lender and the Borrower hereby agree to amend this Borrower Loan Agreement and, if appropriate, the Funding Loan Agreement and the Regulatory Agreement, to the extent required, in the opinion of Tax Counsel, in order for interest on the Governmental Lender Note to remain excludable from gross income for federal income tax purposes. The party requesting such amendment, which may include the Funding Lender, shall notify the other parties to this Borrower Loan Agreement of the proposed amendment and send a copy of such requested amendment to Tax Counsel. After review of such proposed amendment, Tax Counsel shall render to the Funding Lender and the Governmental Lender an opinion as to the effect of such proposed amendment upon the includability of interest on the Governmental Lender Note in the gross income of the recipient thereof for federal income tax purposes. The Borrower shall pay all necessary fees and expenses incurred with respect to such amendment. The Borrower, the Governmental Lender and, where applicable, the Funding

Lender per written instructions from the Governmental Lender shall execute, deliver and, if applicable, the Borrower shall file of record, any and all documents and instruments, including without limitation, an amendment to the Regulatory Agreement, with a file-stamped copy to the Funding Lender, necessary to effectuate the intent of this Section 5.34, and the Borrower and the Governmental Lender hereby appoint the Funding Lender as their true and lawful attorney-in-fact to execute, deliver and, if applicable, file of record on behalf of the Borrower or the Governmental Lender, as is applicable, any such document or instrument (in such form as may be approved by and upon instruction of Tax Counsel) if either the Borrower or the Governmental Lender defaults in the performance of its obligation under this Section 5.34; provided, however, that the Funding Lender shall take no action under this Section 5.34 without first notifying the Borrower or the Governmental Lender, as is applicable, of its intention to take such action and providing the Borrower or the Governmental Lender, as is applicable, a reasonable opportunity to comply with the requirements of this Section 5.34.

The Borrower irrevocably authorizes and directs the Funding Lender and any other agent designated by the Governmental Lender to make payment of such amounts from funds of the Borrower, if any, held by the Funding Lender, or any agent of the Governmental Lender or the Funding Lender. The Borrower further covenants and agrees that, pursuant to the requirements of Treasury Regulation Section 1.148-1(b), it (or any related person contemplated by such regulations) will not purchase interests in the Governmental Lender Note in an amount related to the amount of the Borrower Loan.

**Section 5.35. Payment of Rebate.**

(a) Arbitrage Rebate. The Borrower agrees to take all steps necessary to compute and pay any rebatable arbitrage relating to the Funding Loan or the Governmental Lender Note in accordance with Section 148(f) of the Code including:

(i) Delivery of Documents and Money on Computation Dates. The Borrower will deliver to the Servicer, within 55 days after each Computation Date:

(A) a statement, signed by the Borrower, stating the Rebate Amount as of such Computation Date;

(B) if such Computation Date is an Installment Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to at least 90% of the Rebate Amount as of such Installment Computation Date, less any "previous rebate payments" made to the United States (as that term is used in Section 1.148-3(f)(1) of the Regulations), or (2) if such Computation Date is the final Computation Date, an amount that, together with any amount then held for the credit of the Rebate Fund, is equal to the Rebate Amount as of such final Computation Date, less any "previous rebate payments" made to the United States (as that term is used in Section 1.148-3(f)(1) of the Regulations); and

(C) an Internal Revenue Service Form 8038-T properly signed and completed as of such Computation Date.

(ii) Correction of Underpayments. If the Borrower shall discover or be notified as of any date that any payment paid to the United States Treasury pursuant to this Section 5.35 of an amount described in Section 5.35(a)(i)(A) or (B) above shall have

failed to satisfy any requirement of Section 1.148-3 of the Regulations (whether or not such failure shall be due to any default by the Borrower, the Governmental Lender or the Funding Lender), the Borrower shall (1) pay to the Servicer (for deposit to the Rebate Fund) and cause the Servicer to pay to the United States Treasury from the Rebate Fund the underpayment of the Rebate Amount, together with any penalty and/or interest due, as specified in Section 1.148-3(h) of the Regulations, within 175 days after any discovery or notice and (2) deliver to the Servicer an Internal Revenue Service Form 8038-T completed as of such date. If such underpayment of the Rebate Amount, together with any penalty and/or interest due, is not paid to the United States Treasury in the amount and manner and by the time specified in the Regulations, the Borrower shall take such steps as are necessary to prevent the Governmental Lender Note from becoming an arbitrage bond within the meaning of Section 148 of the Code.

(iii) Records. The Borrower shall retain all of its accounting records relating to the funds established under this Borrower Loan Agreement and all calculations made in preparing the statements described in this Section 5.35 for at least six years after the later of the final maturity of the Governmental Lender Note or the date the Funding Loan is retired in full.

(iv) Costs. The Borrower agrees to pay all of the fees and expenses of a nationally recognized Tax Counsel, the Rebate Analyst, a certified public accountant and any other necessary consultant employed by the Borrower or the Funding Lender in connection with computing the Rebate Amount.

(v) No Diversion of Rebatable Arbitrage. The Borrower will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the Gross Proceeds of the Funding Loan which is not purchased at Fair Market Value or includes terms that the Borrower would not have included if the Funding Loan were not subject to Section 148(f) of the Code.

(vi) Modification of Requirements. If at any time during the term of this Agreement, the Governmental Lender, the Funding Lender or the Borrower desires to take any action which would otherwise be prohibited by the terms of this Section 5.35, such Person shall be permitted to take such action if it shall first obtain and provide to the other Persons named herein a Tax Counsel No Adverse Effect Opinion with respect to such action.

(b) Rebate Fund. The Servicer shall establish and hold a separate fund designated as the "Rebate Fund." The Servicer shall deposit or transfer to the credit of the Rebate Fund each amount delivered to the Servicer by the Borrower for deposit thereto and each amount directed by the Borrower to be transferred thereto.

(c) Within 15 days after each receipt or transfer of funds to the Rebate Fund, the Servicer shall withdraw from the Rebate Fund and pay to the United States of America the entire balance of the Rebate Fund.

(d) All payments to the United States of America pursuant to this Section 5.35 shall be made by the Servicer for the account and in the name of the Governmental Lender and shall be paid through the United States Mail (return receipt requested or overnight delivery), addressed to the appropriate Internal Revenue Service Center and accompanied by the appropriate Internal

Revenue Service forms (such forms to be provided to the Servicer by the Borrower or the Rebate Analyst as set forth in this Section 5.35).

(e) The Borrower shall preserve all statements, forms and explanations received delivered pursuant this Section 5.35 and all records of transactions in the Rebate Fund until six years after the retirement of the Funding Loan.

(f) Moneys and securities held in the Rebate Fund shall not be deemed funds of the Funding Lender or of the Governmental Lender and are not pledged or otherwise subject to any security interest in favor of the Funding Lender to secure the Funding Loan or any other obligations.

(g) Notwithstanding anything to the contrary in this Borrower Loan Agreement, no payment shall be made to the United States if the Borrower shall furnish to the Governmental Lender and the Funding Lender an opinion of Tax Counsel to the effect that such payment is not required under Section 148(d) and (f) of the Code in order to maintain the exclusion from gross income for federal income tax purposes of interest on the Governmental Lender Note. In such event, the Borrower shall be entitled to withdraw funds from the Rebate Fund to the extent the Borrower shall provide a Tax Counsel No Adverse Effect Opinion to the Governmental Lender and the Funding Lender with respect to such withdrawal.

(h) Notwithstanding the foregoing, the computations and payments of rebate amounts referred to in this Section 5.35 need not be made to the extent that neither the Governmental Lender nor the Borrower will thereby fail to comply with any requirements of Section 148(f) of the Code based on a Tax Counsel No Adverse Effect Opinion, a copy of which shall be provided to the Funding Lender.

**Section 5.36. Covenants under Funding Loan Agreement.** The Borrower will fully and faithfully perform all the duties and obligations which the Governmental Lender has covenanted and agreed in the Funding Loan Agreement to cause the Borrower to perform and any duties and obligations which the Borrower is required in the Funding Loan Agreement to perform. The foregoing will not apply to any duty or undertaking of the Governmental Lender which by its nature cannot be delegated or assigned.

**Section 5.37. Notice of Default.** The Borrower will advise the Governmental Lender, the Funding Lender, and the Servicer promptly in writing of the occurrence of any Potential Default or Event of Default hereunder, specifying the nature and period of existence of such event and the actions being taken or proposed to be taken with respect thereto.

**Section 5.38. Continuing Disclosure Agreement.** The Borrower and the Funding Lender shall enter into the Continuing Disclosure Agreement to provide for the continuing disclosure of information about the Governmental Lender Note, the Borrower and other matters as specifically provided for in such agreement.

**Section 5.39. Compliance with Forward Bond Purchase Agreement.** Borrower will do, or cause to be done, all things necessary to preserve and keep unimpaired the rights of the Funding Lender under the Forward Bond Purchase Agreement, and to prevent any default or failure of condition under the Forward Bond Purchase Agreement or any termination or cancellation thereof. Borrower will keep, observe and perform, or cause to be kept, observed and performed, all of the terms, covenants, provisions and agreements contained in the Forward Bond Purchase Agreement on the part of Borrower thereunder to be kept, observed and performed. Without the Funding Lender's prior written consent, the Borrower

will not terminate, cancel (or permit any cancellation or termination), modify, change, supplement, alter, amend, waive, release, assign, transfer, pledge or hypothecate any of its rights or remedies under the Forward Bond Purchase Agreement and any attempt on the part of Borrower to do so without such prior written consent of Funding Lender shall be null and void and of no effect.

## **ARTICLE VI NEGATIVE COVENANTS**

Borrower hereby covenants and agrees as follows, which covenants shall remain in effect so long as any Borrower Payment Obligation or other obligation of Borrower under any of the other Borrower Loan Documents or the Funding Loan Documents remains outstanding or unperformed. Borrower covenants and agrees that it will not, directly or indirectly:

**Section 6.1. Management Agreement.** Without first obtaining the Funding Lender's prior Written Consent, enter into the Management Agreement, and thereafter the Borrower shall not, without the Funding Lender's prior Written Consent (which consent shall not be unreasonably withheld) and subject to the Regulatory Agreement: (i) surrender, terminate or cancel the Management Agreement or otherwise replace the Property Manager or enter into any other management agreement; (ii) reduce or consent to the reduction of the term of the Management Agreement; (iii) increase or consent to the increase of the amount of any charges under the Management Agreement; (iv) otherwise modify, change, supplement, alter or amend in any material respect, or waive or release in any material respect any of its rights and remedies under, the Management Agreement; or (v) suffer or permit the occurrence and continuance of a default beyond any applicable cure period under the Management Agreement (or any successor management agreement) if such default permits the Property Manager to terminate the Management Agreement (or such successor management agreement).

**Section 6.2. Dissolution.** Dissolve or liquidate, in whole or in part, merge with or consolidate into another Person.

**Section 6.3. Change in Business or Operation of Property.** Enter into any line of business other than the ownership and operation of the Project, or make any material change in the scope or nature of its business objectives, purposes or operations, or undertake or participate in activities other than the continuance of its present business and activities incidental or related thereto or otherwise cease to operate the Project as a multi-family property or terminate such business for any reason whatsoever (other than temporary cessation in connection with construction, as appropriate, of the Project).

**Section 6.4. Debt Cancellation.** Cancel or otherwise forgive or release any claim or debt owed to the Borrower by a Person, except for adequate consideration or in the ordinary course of the Borrower's business in its reasonable judgment.

**Section 6.5. Assets.** Purchase or own any real property or personal property incidental thereto other than the Project.

**Section 6.6. Transfers.** Make, suffer or permit the occurrence of any Prohibited Transfer nor transfer any material License required for the operation of the Project.

**Section 6.7. Debt.** Other than as expressly approved in writing by the Funding Lender, create, incur or assume any indebtedness for borrowed money (including subordinate debt) whether unsecured or secured by all or any portion of the Project or interest therein or in the Borrower or any partner thereof (including subordinate debt) other than (i) the Borrower Payment Obligations, (ii) the Subordinate Debt, (iii) secured indebtedness incurred pursuant to or permitted by the Borrower Loan

Documents and the Funding Loan Documents, and (iv) trade payables incurred in the ordinary course of business.

**Section 6.8. Assignment of Rights.** Without the Funding Lender's prior Written Consent, attempt to assign the Borrower's rights or interest under any Borrower Loan Document or Funding Loan Document in contravention of any Borrower Loan Document or Funding Loan Document.

**Section 6.9. Principal Place of Business.** Change its principal place of business without providing 30 days' prior Written Notice of the change to the Funding Lender and the Servicer.

**Section 6.10. Partnership Agreement.** Without the Funding Lender's prior Written Consent (which consent shall not be unreasonably withheld) surrender, terminate, cancel, modify, change, supplement, alter or amend in any material respect, or waive or release in any material respect, any of its rights or remedies under the Partnership Agreement; provided, however, the consent of Funding Lender is not required for (i) an amendment of the Partnership Agreement resulting solely from the "Permitted Transfer" of partnership interests of Borrower as defined in and permitted by the Security Instrument, or, as applicable, the Construction Funding Agreement, or (ii) any amendment or modification of the Partnership Agreement if such amendment or modification does not change the timing, amount, or conditions to funding of any Equity Contributions, or (iii) have an adverse effect or lessen Funding Lender's security in the collateral for the Funding Loan.

**Section 6.11. ERISA.** Maintain, sponsor, contribute to or become obligated to contribute to, or suffer or permit any ERISA Affiliate of the Borrower to, maintain, sponsor, contribute to or become obligated to contribute to, any Plan, or permit the assets of the Borrower to become "plan assets," whether by operation of law or under regulations promulgated under ERISA.

**Section 6.12. No Hedging Arrangements.** Without the prior Written Consent of the Funding Lender, other than the Swap Obligations, or unless otherwise required by this Borrower Loan Agreement, the Borrower will not enter into or guarantee, provide security for or otherwise undertake any form of contractual obligation with respect to any interest rate swap, interest rate cap or other arrangement that has the effect of an interest rate swap or interest rate cap or that otherwise (directly or indirectly, derivatively or synthetically) hedges interest rate risk associated with being a debtor of variable rate debt or any agreement or other arrangement to enter into any of the above on a future date or after the occurrence of one or more events in the future.

**Section 6.13. Loans and Investments; Distributions; Related Party Payments.**

(a) Without the prior Written Consent of Funding Lender in each instance, Borrower shall not (i) lend money, make investments, or extend credit, other than in the ordinary course of its business as presently conducted; or (ii) repurchase, redeem or otherwise acquire any interest in Borrower, any Affiliate or any other Person owning an interest, directly or indirectly, in Borrower, or make any distribution, in cash or in kind, in respect of interests in Borrower, any Affiliate or any other Person owning an interest, directly or indirectly, in Borrower (except to the extent permitted by the Security Instrument and subject to the limitations set forth in Section 5.27 hereof).

(b) Disbursements for fees and expenses of any Affiliate of Borrower and developer fees (however characterized) will only be paid to the extent that such fee or expense bears a proportionate relationship to the percentage of completion of the construction, as the case may be, of the Improvements, as determined by the Construction Consultant, and only after deducting the applicable Retainage. Except as otherwise permitted hereunder or by the Funding Lender, no

Disbursements for the Developer Fee or any "deferred developer fees" shall be made prior to Conversion.

**Section 6.14. Amendment of Related Documents or CC&R's.** Without the prior Written Consent of Funding Lender in each instance, except as provided herein, Borrower shall not enter into or consent to any amendment, termination, modification, or other alteration of any of the Related Documents or any of the CC&R's (including, without limitation, those contained in the Borrower Loan Agreement, any Architect's Agreement or Engineer's Contract, any Construction Contract, and any Management Agreement, but excluding the Partnership Agreement, which is covered by Section 6.10), or any assignment, transfer, pledge or hypothecation of any of its rights thereunder, if any.

**Section 6.15. Personal Property.** Borrower shall not install materials, personal property, equipment or fixtures subject to any security agreement or other agreement or contract wherein the right is reserved to any Person other than Borrower to remove or repossess any such materials, equipment or fixtures, or whereby title to any of the same is not completely vested in Borrower at the time of installation, without Funding Lender's prior Written Consent; provided, however, that this Section 6.15 shall not apply to laundry equipment or other equipment that is owned by a third-party vendor and commercial tenants.

**Section 6.16. Fiscal Year.** Without Funding Lender's Written Consent, which shall not be unreasonably withheld, neither Borrower nor General Partner shall change the times of commencement or termination of its fiscal year or other accounting periods, or change its methods of accounting, other than to conform to GAAP.

**Section 6.17. Publicity.** Neither Borrower nor General Partner shall issue any publicity release or other communication to any print, broadcast or on-line media, post any sign or in any other way identify Funding Lender or any of its Affiliates as the source of the financing provided for herein, without the prior written approval of Funding Lender in each instance (provided that nothing herein shall prevent Borrower or General Partner from identifying Funding Lender or its Affiliates as the source of such financing to the extent that Borrower or General Partner are required to do so by disclosure requirements applicable to publicly held companies). Borrower and General Partner agree that no sign shall be posted on the Project in connection with the construction of the Improvements unless such sign identifies Citigroup and its affiliates as the source of the financing provided for herein or Funding Lender consents to not being identified on any such sign.

**Section 6.18. Subordinate Loan Documents.** Without Funding Lender's prior written consent, Borrower will not surrender, terminate, cancel, modify, change, supplement, alter, amend, waive, release, assign, transfer, pledge or hypothecate any of its rights or remedies under the Subordinate Loan Documents.

**ARTICLE VII  
RESERVED**

**ARTICLE VIII  
DEFAULTS**

**Section 8.1. Events of Default.** Each of the following events shall constitute an "Event of Default" under the Borrower Loan Agreement:

(a) failure by the Borrower to pay any Borrower Loan Payment in the manner and on the date such payment is due in accordance with the terms and provisions of the Borrower Note, or the failure by the Borrower to pay any Additional Borrower Payment on the date such payment is due in accordance with the terms and provisions of the Borrower Note, the Security Instrument, this Borrower Loan Agreement or any other Borrower Loan Document;

(b) failure by or on behalf of the Borrower to pay when due any amount (other than as provided in subsection (a) above or elsewhere in this Section 8.1) required to be paid by the Borrower under this Borrower Loan Agreement, the Borrower Note, the Security Instrument, the Permanent Loan Continuing Covenants Agreement or any of the other Borrower Loan Documents or Funding Loan Documents, including a failure to repay any amounts that have been previously paid but are recovered, attached or enjoined pursuant to any insolvency, receivership, liquidation or similar proceedings, which default remains uncured for a period of five (5) days after Written Notice thereof shall have been given to the Borrower;

(c) an Event of Default, as defined by the Borrower Note, the Security Instrument, the Permanent Loan Continuing Covenants Agreement or any other Borrower Loan Document, occurs (or to the extent an "Event of Default" is not defined in any other Borrower Loan Document, any default or breach by the Borrower or any Guarantor of its obligations, covenants, representations or warranties under such Borrower Loan Document occurs and any applicable notice and/or cure period has expired);

(d) any representation or warranty made by any of the Borrower, the Guarantor or the General Partner in any Borrower Loan Document or Funding Loan Document to which it is a party, or in any report, certificate, financial statement or other instrument, agreement or document furnished by the Borrower, the Guarantor or the General Partner in connection with any Borrower Loan Document or Funding Loan Document, shall be false or misleading in any material respect as of the Closing Date;

(e) the Borrower shall make a general assignment for the benefit of creditors, or shall generally not be paying its debts as they become due;

(f) the Borrower Controlling Entity shall make a general assignment for the benefit of creditors, shall generally not be paying its debts as they become due, or an Act of Bankruptcy with respect to the Borrower Controlling Entity shall occur, unless in all cases the Borrower Controlling Entity is replaced with a substitute Borrower Controlling Entity that satisfies the requirements of the Construction Funding Agreement.

(g) any portion of Borrower Deferred Equity to be made by the Equity Investor and required for (i) completion of the construction, as the case may be, of the Improvements, (ii) the satisfaction of the Conversion Conditions or (iii) the operation of the Improvements, is not received in accordance with the terms of the Partnership Agreement after the expiration of all applicable notice and cure periods;

(h) the failure by Borrower or any ERISA Affiliate of Borrower to comply in all respects with ERISA, or the occurrence of any other event (with respect to the failure of Borrower or any ERISA Affiliate to pay any amount required to be paid under ERISA or with respect to the termination of, or withdrawal of Borrower or any ERISA Affiliate from, any employee benefit or welfare plan subject to ERISA) the effect of which is to impose upon Borrower (after giving effect to the tax consequences thereof) for the payment of any amount in excess of Fifty Thousand Dollars (\$50,000);

(i) a bankruptcy event shall occur with respect to Borrower, General Partner or, during the term of any Guaranty, any Guarantor, or there shall be a change in the assets, liabilities or financial position of any such Person which has a material adverse effect upon the ability of such Person to perform such Person's obligations under this Borrower Loan Agreement, any other Borrower Loan Document or any Related Document, provided that any such bankruptcy event with respect to a Guarantor shall not constitute an Event of Default: (i) if the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender and (ii) such replacement guarantor executes and delivers to Funding Lender a guaranty in the form of the Guaranty or in such other form as is acceptable to Funding Lender;

(j) all or any part of the property of Borrower is attached, levied upon or otherwise seized by legal process, and such attachment, levy or seizure is not quashed, stayed or released: (i) prior to completion of the construction, as the case may be, of the Improvements, within ten (10) days of the date thereof or (ii) after completion of the construction, as the case may be, of the Improvements, within thirty (30) days of the date thereof;

(k) subject to Section 10.16 hereof, Borrower fails to pay when due any monetary obligation (other than pursuant to this Borrower Loan Agreement) to any Person in excess of \$100,000, and such failure continues beyond the expiration of any applicable cure or grace periods;

(l) any material litigation or proceeding is commenced before any Governmental Authority against or affecting Borrower, General Partner or, during the term of any Guaranty, any Guarantor, or property of Borrower, General Partner or Guarantor, or any part thereof, and such litigation or proceeding is not defended diligently and in good faith by Borrower, General Partner or Guarantor, as applicable, provided that any such material litigation or proceeding against Guarantor shall not constitute an Event of Default: (i) if the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender and (ii) such replacement guarantor execute and delivers to Funding Lender a guaranty in the form of the Guaranty or in such other form as is acceptable to Funding Lender;

(m) a final judgment or decree for monetary damages in excess of \$50,000 or a monetary fine or penalty (not subject to appeal or as to which the time for appeal has expired) is entered against Borrower, General Partner or, during the term of any Guaranty, any Guarantor by any Governmental Authority, and such judgment, decree, fine or penalty is not paid and discharged or stayed (i) prior to completion of the construction, as the case may be, of the Improvements, within ten (10) days after entry thereof or (ii) after completion of the construction, as the case may be, of the Improvements, within thirty (30) days after entry thereof (or such longer period as may be permitted for payment by the terms of such judgment, fine or penalty) ,

provided that any such judgment, decree, fine or penalty against the Guarantor shall not constitute an Event of Default: (i) if the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender and (ii) such replacement guarantor executes and delivers to Funding Lender a guaranty in the form of the Guaranty or in such other form as is acceptable to Funding Lender;

(n) a final, un-appealable and uninsured money judgment or judgments, in favor of any Person other than a Governmental Authority, in the aggregate sum of \$50,000 or more shall be rendered against Borrower, General Partner or, during the term of any Guaranty, any Guarantor, or against any of their respective assets, that is not paid, superseded or stayed (i) prior to completion of the construction, as the case may be, of the Improvements, within ten (10) days after entry thereof or (ii) after completion of the construction, as the case may be, of the Improvements, within thirty (30) days after entry thereof (or such longer period as may be permitted for payment by the terms of such judgment); or any levy of execution, writ or warrant of attachment, or similar process, is entered or filed against Borrower, General Partner or Guarantor, or against any of their respective assets (that is likely to have a material adverse effect upon the ability of Borrower, General Partner or Guarantor to perform their respective obligations under this Borrower Loan Agreement, any other Borrower Loan Document or any Related Document), and such judgment, writ, warrant or process shall remain unsatisfied, unsettled, unvacated, unhandled and unstayed (i) prior to completion of the construction, as the case may be, of the Improvements, for a period of ten (10) days or (ii) after completion of the construction, as the case may be, of the Improvements, for a period of thirty (30) days, or in any event later than five (5) Business Days prior to the date of any proposed sale thereunder, provided that any such judgment, levy, writ, warrant, attachment or similar process against the Guarantor shall not constitute an Event of Default: (i) if the Borrower replaces such Guarantor with a person or entity satisfying the Funding Lender's mortgage credit standards for principals and acceptable to the Funding Lender in its sole and absolute discretion within thirty (30) days after notice thereof from the Funding Lender and (ii) such replacement guarantor executes and delivers to Funding Lender a guaranty in the form of the Guaranty or in such other form as is acceptable to Funding Lender;

(o) the inability of Borrower to satisfy any condition for the receipt of a Disbursement hereunder (other than an Event of Default specifically addressed in this Section 8.1) and failure to resolve the situation to the satisfaction of Funding Lender for a period in excess of thirty (30) days after Written Notice from Funding Lender unless (i) such inability shall have been caused by conditions beyond the control of Borrower, including, without limitation, acts of God or the elements, fire, strikes and disruption of shipping; (ii) Borrower shall have made adequate provision, acceptable to Funding Lender, for the protection of materials stored on-site or off-site and for the protection of the Improvements to the extent then constructed against deterioration and against other loss or damage or theft; (iii) Borrower shall furnish to Funding Lender satisfactory evidence that such cessation of construction will not adversely affect or interfere with the rights of Borrower under labor and materials contracts or subcontracts relating to the construction or operation of the Improvements; and (iv) Borrower shall furnish to Funding Lender satisfactory evidence that the completion of the construction of the Improvements can be accomplished by the Completion Date;

(p) the construction of the Improvements is abandoned or halted prior to completion for any period of thirty (30) consecutive days;

(q) Borrower shall fail to keep in force and effect any material permit, license, consent or approval required under this Borrower Loan Agreement, or any Governmental Authority with jurisdiction over the Mortgaged Property or the Project orders or requires that construction of the Improvements be stopped, in whole or in part, or that any required approval, license or permit be withdrawn or suspended, and the order, requirement, withdrawal or suspension remains in effect for a period of thirty (30) days;

(r) failure by the Borrower to Substantially Complete the construction, as the case may be, of the Improvements in accordance with this Borrower Loan Agreement on or prior to the Substantial Completion Date;

(s) failure by Borrower to complete the construction, as the case may be, of the Improvements in accordance with this Borrower Loan Agreement and the Construction Funding Agreement on or prior to the Completion Date;

(t) failure by Borrower to satisfy the Conversion Conditions or for Conversion to occur on or before the Outside Conversion Date, as may be extended to the Extended Outside Conversion Date in accordance with the Construction Funding Agreement;

(u) a default or failure of condition shall have occurred and continued beyond any applicable notice and cure period under the Forward Bond Purchase Agreement or the Forward Purchase Agreement is revoked, rescinded or terminated;

(v) failure by any Subordinate Lender to disburse the proceeds of its Subordinate Loan in approximately such amounts and at approximately such times as set forth in the Cost Breakdown and in the Subordinate Loan Documents;

(w) the occurrence (beyond any applicable notice and cure period) and continuation of a default under any of the CC&Rs or any of the CC&Rs shall, without the prior written consent of the Funding Lender, be amended, terminated or suspended;

(x) an "Event of Default" or "Default" (as defined in the applicable agreement) shall occur under any of the Subordinate Loan Documents, after the expiration of all applicable notice and cure periods or, without the prior written consent of the Funding Lender, any of the Subordinate Loan documents shall be amended or terminated;

(y) Borrower fails to obtain all grading, foundation, building and all other construction permits, licenses and authorizations from all applicable Government Authorities or third parties necessary for the completion of the construction, as the case may be, of the Improvements, and the operation of, and access to, the Project, within 425 days after the Closing Date;

(z) a Determination of Taxability occurs; or

(aa) any failure by the Borrower to perform or comply with any of its obligations under this Borrower Loan Agreement (other than those specified in this Section 8.1), as and when required, which continues for a period of thirty (30) days after written notice of such failure by Funding Lender or the Servicer on its behalf to the Borrower; provided, however, if such failure is susceptible of cure but cannot reasonably be cured within such thirty (30) day period, and the Borrower shall have commenced to cure such failure within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall

be extended for an additional period of time as is reasonably necessary for the Borrower in the exercise of due diligence to cure such failure, such additional period not to exceed sixty (60) days. However, no such notice or grace period shall apply to the extent such failure could, in the Funding Lender's judgment, absent immediate exercise by the Funding Lender of a right or remedy under this Borrower Loan Agreement, result in harm to the Funding Lender, impairment of the Borrower Note or this Borrower Loan Agreement or any security given under any other Borrower Loan Document.

## **Section 8.2. Remedies.**

**Section 8.2.1 Acceleration.** Upon the occurrence of an Event of Default (other than an Event of Default described in paragraph (e), (f) or (i) of Section 8.1) and at any time and from time to time thereafter, as long as such Event of Default continues to exist, in addition to any other rights or remedies available to the Governmental Lender pursuant to the Borrower Loan Documents or at law or in equity, the Funding Lender may, take such action, without notice or demand, as the Funding Lender deems advisable to protect and enforce its rights against the Borrower and in and to the Project, including declaring the Borrower Payment Obligations to be immediately due and payable (including, without limitation, the principal of, Prepayment Premium, if any, and interest on and all other amounts due on the Borrower Note to be immediately due and payable), without notice or demand, and apply such payment of the Borrower Payment Obligations in any manner and in any order determined by Funding Lender, in Funding Lender's sole and absolute discretion; and upon any Event of Default described in paragraph (e), (f) or (i) of Section 8.1, the Borrower Payment Obligations shall become immediately due and payable, without notice or demand, and the Borrower hereby expressly waives any such notice or demand, anything contained in any Borrower Loan Document to the contrary notwithstanding. Notwithstanding anything herein to the contrary, enforcement of remedies hereunder and under the Funding Loan Agreement shall be controlled by the Funding Lender.

**Section 8.2.2 Remedies Cumulative.** Upon the occurrence of an Event of Default, all or any one or more of the rights, powers, privileges and other remedies available to the Funding Lender against the Borrower under the Borrower Loan Documents or at law or in equity may be exercised by the Funding Lender, at any time and from time to time, whether or not all or any of the Borrower Payment Obligations shall be declared due and payable, and whether or not the Funding Lender shall have commenced any foreclosure proceeding or other action for the enforcement of its rights and remedies under any of the Borrower Loan Documents. Any such actions taken by the Funding Lender shall be cumulative and concurrent and may be pursued independently, singly, successively, together or otherwise, at such time and in such order as the Funding Lender may determine in its sole discretion, to the fullest extent permitted by law, without impairing or otherwise affecting the other rights and remedies of the Funding Lender permitted by law, equity or contract or as set forth in the Borrower Loan Documents. Without limiting the generality of the foregoing, the Borrower agrees that if an Event of Default is continuing, all Liens and other rights, remedies or privileges provided to the Funding Lender shall remain in full force and effect until Funding Lender has exhausted all of its remedies, the Security Instrument has been foreclosed, the Project has been sold and/or otherwise realized upon satisfaction of the Borrower Payment Obligations or the Borrower Payment Obligations have been indefeasibly paid in full. To the extent permitted by applicable law, nothing contained in any Borrower Loan Document shall be construed as requiring the Funding Lender to resort to any portion of the Project for the satisfaction of any of the Borrower Payment Obligations in preference or priority to any other portion, and the Funding Lender may seek satisfaction out of the entire Project or any part thereof, in its absolute discretion.

Notwithstanding any provision herein to the contrary, the Governmental Lender and the Funding Lender agree that any cure of any default made or tendered by the Equity Investor shall be deemed to be a

cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

**Section 8.2.3 Delay.** No delay or omission to exercise any remedy, right, power accruing upon an Event of Default, or the granting of any indulgence or compromise by the Funding Lender shall impair any such remedy, right or power hereunder or be construed as a waiver thereof, but any such remedy, right or power may be exercised from time to time and as often as may be deemed expedient. A waiver of one Potential Default or Event of Default shall not be construed to be a waiver of any subsequent Potential Default or Event of Default or to impair any remedy, right or power consequent thereon. Notwithstanding any other provision of this Borrower Loan Agreement, the Funding Lender reserves the right to seek a deficiency judgment or preserve a deficiency claim, in connection with the foreclosure of the Security Instrument to the extent necessary to foreclose on the Project, the Rents, the funds or any other collateral.

**Section 8.2.4 Set Off; Waiver of Set Off.** Upon the occurrence of an Event of Default, Funding Lender may, at any time and from time to time, without notice to Borrower or any other Person (any such notice being expressly waived), set off and appropriate and apply (against and on account of any obligations and liabilities of Borrower to Funding Lender arising under or connected with this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents, irrespective of whether or not Funding Lender shall have made any demand therefor, and although such obligations and liabilities may be contingent or unmatured), and Borrower hereby grants to Funding Lender, as security for the Borrower Payment Obligations, a security interest in, any and all deposits (general or special, including but not limited to Debt evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other Debt at any time held or owing by Funding Lender to or for the credit or the account of Borrower.

**Section 8.2.5 Assumption of Obligations.** In the event that the Funding Lender or its assignee or designee shall become the legal or beneficial owner of the Project by foreclosure or deed in lieu of foreclosure, such party shall succeed to the rights and the obligations of the Borrower under this Borrower Loan Agreement, the Borrower Note, the Regulatory Agreement, and any other Borrower Loan Documents and Funding Loan Documents to which the Borrower is a party. Such assumption shall be effective from and after the effective date of such acquisition and shall be made with the benefit of the limitations of liability set forth therein and without any liability for the prior acts of the Borrower.

**Section 8.2.6 Accounts Receivable.** Upon the occurrence of an Event of Default, Funding Lender shall have the right, to the extent permitted by law, to impound and take possession of books, records, notes and other documents evidencing Borrower's accounts, accounts receivable and other claims for payment of money, arising in connection with the Project, and to make direct collections on such accounts, accounts receivable and claims for the benefit of Funding Lender.

**Section 8.2.7 Defaults under Other Documents.** Funding Lender shall have the right to cure any default under any of the Related Documents, the CC&Rs or the Subordinate Loan Documents, but shall have no obligation to do so.

**Section 8.2.8 Abatement of Disbursements.** Notwithstanding any provision to the contrary herein or any of the other Borrower Loan Documents or the Funding Loan Documents, Funding Lender's obligation to make further Disbursements shall abate (i) during the continuance of any Potential Default, (ii) after any disclosure to Funding Lender of any fact or circumstance that, absent such disclosure, would cause any representation or warranty of Borrower to fail to be true and correct in all material respects, unless and until Funding Lender elects to permit further Disbursements notwithstanding such event or circumstance; and (iii) upon the occurrence of any Event of Default.

**Section 8.2.9 Completion of Improvements.** Upon the occurrence of any Event of Default, Funding Lender shall have the right to cause an independent contractor selected by Funding Lender to enter into possession of the Project and to perform any and all work and labor necessary for the completion of the Project substantially in accordance with the Plans and Specifications, if any, and to perform Borrower's obligations under this Borrower Loan Agreement. All sums expended by Funding Lender for such purposes shall be deemed to have been disbursed to and borrowed by Borrower and shall be secured by the Security Documents.

**Section 8.2.10 Right to Directly Enforce.** Notwithstanding any other provision hereof to the contrary, the Funding Lender shall have the right to directly enforce all rights and remedies hereunder with or without involvement of the Governmental Lender, provided that only the Governmental Lender may enforce the Unassigned Rights and Funding Lender shall not impair Governmental Lender's enforcement of Unassigned Rights. In the event that any of the provisions set forth in this Section 8.2.10 are inconsistent with the covenants, terms and conditions of the Security Instrument, the covenants, terms and conditions of the Security Instrument shall prevail.

**Section 8.2.11 Power of Attorney.** Effective upon the occurrence of an Event of Default, and continuing until and unless such Event of Default is cured or waived, Borrower hereby constitutes and appoints Funding Lender, or an independent contractor selected by Funding Lender, as its true and lawful attorney-in-fact with full power of substitution, for the purposes of completion of the Project and performance of Borrower's obligations under this Borrower Loan Agreement in the name of Borrower, and hereby empowers said attorney-in-fact to do any or all of the following upon the occurrence and continuation of an Event of Default (it being understood and agreed that said power of attorney shall be deemed to be a power coupled with an interest which cannot be revoked until full payment and performance of all obligations under this Borrower Loan Agreement and the other Borrower Loan Documents and the Funding Loan Documents):

- (a) to use any of the funds of Borrower or General Partner, including any balance of the Borrower Loan, as applicable, and any funds which may be held by Funding Lender for Borrower (including all funds in all deposit accounts in which Borrower has granted to Funding Lender a security interest), for the purpose of effecting completion of the construction, as the case may be, of the Improvements, in the manner called for by the Plans and Specifications;
- (b) to make such additions, changes and corrections in the Plans and Specifications as shall be necessary or desirable to complete the Project in substantially the manner contemplated by the Plans and Specifications;
- (c) to employ any contractors, subcontractors, agents, architects and inspectors required for said purposes;
- (d) to employ attorneys to defend against attempts to interfere with the exercise of power granted hereby;
- (e) to pay, settle or compromise all existing bills and claims which are or may be liens against the Project, the Improvements or the Project, or may be necessary or desirable for the completion of the construction, as the case may be, of the Improvements, or clearance of objections to or encumbrances on title;
- (f) to execute all applications and certificates in the name of Borrower, which may be required by any other construction contract;

(g) to prosecute and defend all actions or proceedings in connection with the Project and to take such action, require such performance and do any and every other act as is deemed necessary with respect to the completion of the construction, as the case may be, of the Improvements, which Borrower might do on its own behalf;

(h) to let new or additional contracts to the extent not prohibited by their existing contracts;

(i) to employ watchmen and erect security fences to protect the Project from injury; and

(j) to take such action and require such performance as it deems necessary under any of the bonds or insurance policies to be furnished hereunder, to make settlements and compromises with the sureties or insurers thereunder, and in connection therewith to execute instruments of release and satisfaction.

It is the intention of the parties hereto that upon the occurrence and continuance of an Event of Default, rights and remedies may be pursued pursuant to the terms of the Borrower Loan Documents and the Funding Loan Documents. The parties hereto acknowledge that, among the possible outcomes to the pursuit of such remedies, is the situation where the Funding Lender assignees or designees become the owner of the Project and assume the obligations identified above, and the Borrower Note, the Borrower Loan and the other Borrower Loan Documents and Funding Loan Documents remain outstanding.

#### **ARTICLE IX SPECIAL PROVISIONS**

##### **Section 9.1. Sale of Note and Secondary Market Transaction.**

**Section 9.1.1 Cooperation.** Subject to the restrictions of Section 2.4 of the Funding Loan Agreement, at the Funding Lender's or the Servicer's request (to the extent not already required to be provided by the Borrower under this Borrower Loan Agreement), the Borrower shall use reasonable efforts to satisfy the market standards to which the Funding Lender or the Servicer customarily adheres or which may be reasonably required in the marketplace or by the Funding Lender or the Servicer in connection with one or more sales or assignments of all or a portion of the Governmental Lender Note and the Funding Loan or participations therein or securitizations of single or multi-class securities (the "Securities") secured by or evidencing ownership interests in all or a portion of the Governmental Lender Note and the Funding Loan (each such sale, assignment and/or securitization, a "Secondary Market Transaction"); provided that neither the Borrower nor the Governmental Lender shall incur any third party or other out-of-pocket costs and expenses in connection with a Secondary Market Transaction, including the costs associated with the delivery of any Provided Information or any opinion required in connection therewith, and all such costs shall be paid by the Funding Lender or the Servicer, and shall not materially modify Borrower's rights or obligations. Without limiting the generality of the foregoing, the Borrower shall, so long as the Borrower Loan is still outstanding:

(a) (i) provide such financial and other information with respect to the Borrower Loan, and with respect to the Project, the Borrower, the Property General Partner, the contractor of the Project or the Borrower Controlling Entity, (ii) provide financial statements, audited, if available, relating to the Project with customary disclaimers for any forward looking statements or lack of audit, and (iii), at the expense of the Funding Lender or the Servicer, perform or permit or cause to be performed or permitted such site inspection, appraisals, surveys, market studies, environmental reviews and reports (Phase I's and, if appropriate, Phase II's), engineering reports

and other due diligence investigations of the Project, as may be reasonably requested from time to time by the Funding Lender or the Servicer or the Rating Agencies or as may be necessary or appropriate in connection with a Secondary Market Transaction or Exchange Act requirements (the items provided to the Funding Lender or the Servicer pursuant to this paragraph (a) being called the "Provided Information"), together, if customary, with appropriate verification of and/or consents to the Provided Information through letters of auditors or opinions of counsel of independent attorneys acceptable to the Funding Lender or the Servicer and the Rating Agencies;

(b) make such representations and warranties as of the closing date of any Secondary Market Transaction with respect to the Project, the Borrower, the Borrower Loan Documents and the Funding Loan Documents reasonably acceptable to the Funding Lender or the Servicer, consistent with the facts covered by such representations and warranties as they exist on the date thereof; and

(c) execute such amendments to the Borrower Loan Documents and the Funding Loan Documents to accommodate such Secondary Market Transaction so long as such amendment does not affect the material economic terms of the Borrower Loan Documents and the Funding Loan Documents and is not otherwise adverse to the Borrower in its reasonable discretion.

**Section 9.1.2 Use of Information.** The Borrower understands that certain of the Provided Information and the required records may be included in disclosure documents in connection with a Secondary Market Transaction, including a prospectus or private placement memorandum (each, a "Secondary Market Disclosure Document"), or provided or made available to investors or prospective investors in the Securities, the Rating Agencies and service providers or other parties relating to the Secondary Market Transaction. In the event that the Secondary Market Disclosure Document is required to be revised, the Borrower shall cooperate, subject to Section 9.1.1(c) hereof, with the Funding Lender and the Servicer in updating the Provided Information or required records for inclusion or summary in the Secondary Market Disclosure Document or for other use reasonably required in connection with a Secondary Market Transaction by providing all reasonably requested current information pertaining to the Borrower and the Project necessary to keep the Secondary Market Disclosure Document accurate and complete in all material respects with respect to such matters. The Borrower hereby consents to any and all such disclosures of such information.

**Section 9.1.3 Borrower Obligations Regarding Secondary Market Disclosure Documents.** In connection with a Secondary Market Disclosure Document, the Borrower shall provide, or in the case of a Borrower-engaged third party such as the Property General Partner, cause it to provide, information reasonably requested by the Funding Lender pertaining to the Borrower, the Project or such third party (and portions of any other sections reasonably requested by the Funding Lender pertaining to the Borrower, the Project or the third party). The Borrower shall, if requested by the Funding Lender and the Servicer, certify in writing that the Borrower has carefully examined those portions of such Secondary Market Disclosure Document, pertaining to the Borrower, the Project or the Property General Partner, and such portions (and portions of any other sections reasonably requested and pertaining to the Borrower, the Project or the Property General Partner) do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; provided that the Borrower shall not be required to make any representations or warranties regarding any Provided Information obtained from a third party except with respect to information it provided to such parties. Furthermore, the Borrower hereby indemnifies the Funding Lender, the Governmental Lender and the Servicer for any Liabilities to which any such parties may become subject to the extent such Liabilities arise out of or are based upon the use of the Provided Information in a Secondary Market Disclosure Document; provided that the Borrower shall not provide

any indemnification regarding any Provided Information obtained from unrelated third parties except with respect to information it provided to such parties.

**Section 9.1.4 Borrower Indemnity Regarding Filings.** In connection with filings under the Exchange Act or the Securities Act, the Borrower shall (i) indemnify Funding Lender, the Governmental Lender and the underwriter group for any securities (the "Underwriter Group") and all officials, employees and agents of any of them for any Liabilities to which Funding Lender, the Servicer or the Underwriter Group may become subject insofar as the Liabilities arise out of or are based upon the omission or alleged omission to state in the Provided Information of a material fact required to be stated in the Provided Information in order to make the statements in the Provided Information, in the light of the circumstances under which they were made not misleading and (ii) reimburse the Funding Lender, the Servicer, the Underwriter Group and other indemnified parties listed above for any legal or other expenses reasonably incurred by the Funding Lender, the Servicer or the Underwriter Group in connection with defending or investigating such Liabilities; provided that the Borrower shall not provide any indemnification regarding any Provided Information obtained from unrelated third parties except with respect to information it provided to such parties.

**Section 9.1.5 Indemnification Procedure.** Promptly after receipt by an indemnified party under Sections 9.1.3 and 9.1.4 hereof of notice of the commencement of any action for which a claim for indemnification is to be made against the Borrower, such indemnified party shall notify the Borrower in writing of such commencement, but the omission to so notify the Borrower will not relieve the Borrower from any liability that it may have to any indemnified party hereunder except to the extent that failure to notify causes prejudice to the Borrower. In the event that any action is brought against any indemnified party, and it notifies the Borrower of the commencement thereof, the Borrower will be entitled, jointly with any other indemnifying party, to participate therein and, to the extent that it (or they) may elect by Written Notice delivered to the indemnified party promptly after receiving the aforesaid notice of commencement, to assume the defense thereof with counsel selected by the Borrower and reasonably satisfactory to such indemnified party in its sole discretion. After notice from the Borrower to such indemnified party under this Section 9.1.5, the Borrower shall not be responsible for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation. No indemnified party shall settle or compromise any claim for which the Borrower may be liable hereunder without the prior Written Consent of the Borrower.

**Section 9.1.6 Contribution.** In order to provide for just and equitable contribution in circumstances in which the indemnity agreement provided for in Section 9.1.4 hereof is for any reason held to be unenforceable by an indemnified party in respect of any Liabilities (or action in respect thereof) referred to therein which would otherwise be indemnifiable under Section 9.1.4 hereof, the Borrower shall contribute to the amount paid or payable by the indemnified party as a result of such Liabilities (or action in respect thereof); provided, however, that no Person guilty of fraudulent misrepresentation (within the meaning of Section 10(f) of the Securities Act) shall be entitled to contribution from any Person not guilty of such fraudulent misrepresentation. In determining the amount of contribution to which the respective parties are entitled, the following factors shall be considered: (i) the indemnified parties and the Borrower's relative knowledge and access to information concerning the matter with respect to which the claim was asserted; (ii) the opportunity to correct and prevent any statement or omission; and (iii) any other equitable considerations appropriate in the circumstances. The parties hereto hereby agree that it may not be equitable if the amount of such contribution were determined by pro rata or per capita allocation.



and with a copy to:	NEF Assignment Corporation c/o National Equity Fund 10 South Riverside Plaza, Suite 1700 Chicago, Illinois 60606
And with a copy to:	Holland & Knight LLP 10 St. James Avenue, 12 <sup>th</sup> Floor Boston, Massachusetts 02116 Attention: Sean B. Leonard
If to the Construction Funding Lender:	CIBC Bank USA 120 South LaSalle Street Chicago, Illinois 60603 Attention: Jim Scudder, Managing Director
with a copy to:	Charity & Associates, P.C. 20 North Clark Street Suite 3300 Chicago, Illinois 60602 Attention: Elvin Charity
If to the Permanent Funding Lender:	The Community Development Trust, LP 1350 Broadway Suite 700 New York, New York 10018 Attention: Christopher Blair
with a copy to:	Krooth & Altman LLP 1850 M Street NW Suite 400 Washington, DC 20036 Attention: Andrew Rogers

Any party may change such party's address for the notice or demands required under this Borrower Loan Agreement by providing written notice of such change of address to the other parties by written notice as provided herein.

**Section 10.2. Brokers and Financial Advisors.** The Borrower hereby represents that it has dealt with no financial advisors, brokers, underwriters, placement agents, agents or finders in connection with the Borrower Loan, other than those disclosed to the Funding Lender and whose fees shall be paid by the Borrower pursuant to separate agreements. The Borrower and the Funding Lender shall indemnify and hold the other harmless from and against any and all claims, liabilities, costs and expenses of any kind in any way relating to or arising from a claim by any Person that such Person acted on behalf of the indemnifying party in connection with the transactions contemplated herein. The provisions of this Section 10.2 shall survive the expiration and termination of this Borrower Loan Agreement and the repayment of the Borrower Payment Obligations.

**Section 10.3. Survival.** This Borrower Loan Agreement and all covenants, agreements, representations and warranties made herein and in the certificates delivered pursuant hereto shall survive the making by the Governmental Lender of the Borrower Loan and the execution and delivery to the Governmental Lender of the Borrower Note and the assignment of the Borrower Note to the Funding

Lender, and shall continue in full force and effect so long as all or any of the Borrower Payment Obligations is unpaid. All the Borrower's covenants and agreements in this Borrower Loan Agreement shall inure to the benefit of the respective legal representatives, successors and assigns of the Governmental Lender, the Funding Lender and the Servicer.

**Section 10.4. Preferences.** The Governmental Lender shall have the continuing and exclusive right to apply or reverse and reapply any and all payments by the Borrower to any portion of the Borrower Payment Obligations. To the extent the Borrower makes a payment to the Governmental Lender or the Servicer, or the Governmental Lender or the Servicer receives proceeds of any collateral, which is in whole or part subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the Borrower Payment Obligations or part thereof intended to be satisfied shall be revived and continue in full force and effect, as if such payment or proceeds had not been received by the Governmental Lender or the Servicer.

**Section 10.5. Waiver of Notice.** The Borrower shall not be entitled to any notices of any nature whatsoever from the Funding Lender or the Servicer except with respect to matters for which this Borrower Loan Agreement or any other Borrower Loan Document specifically and expressly provides for the giving of notice by the Funding Lender or the Servicer, as the case may be, to the Borrower and except with respect to matters for which the Borrower is not, pursuant to applicable Legal Requirements, permitted to waive the giving of notice. The Borrower hereby expressly waives the right to receive any notice from the Funding Lender or the Servicer, as the case may be, with respect to any matter for which no Borrower Loan Document specifically and expressly provides for the giving of notice by the Funding Lender or the Servicer to the Borrower.

**Section 10.6. Offsets, Counterclaims and Defenses.** The Borrower hereby waives the right to assert a counterclaim, other than a compulsory counterclaim, in any action or proceeding brought against it by the Funding Lender or the Servicer with respect to a Borrower Loan Payment. Any assignee of Funding Lender's interest in and to the Borrower Loan Documents or the Funding Loan Documents shall take the same free and clear of all offsets, counterclaims or defenses that are unrelated to the Borrower Loan Documents or the Funding Loan Documents which the Borrower may otherwise have against any assignor of such documents, and no such unrelated offset, counterclaim or defense shall be interposed or asserted by the Borrower in any action or proceeding brought by any such assignee upon such documents, and any such right to interpose or assert any such unrelated offset, counterclaim or defense in any such action or proceeding is hereby expressly waived by the Borrower.

**Section 10.7. Publicity.** The Funding Lender and the Servicer (and any Affiliates of either party) shall have the right to issue press releases, advertisements and other promotional materials describing the Funding Lender's or the Servicer's participation in the making of the Borrower Loan or the Borrower Loan's inclusion in any Secondary Market Transaction effectuated by the Funding Lender or the Servicer or one of its or their Affiliates. All news releases, publicity or advertising by the Borrower or its Affiliates through any media intended to reach the general public, which refers to the Borrower Loan Documents or the Funding Loan Documents, the Borrower Loan, the Funding Lender or the Servicer in a Secondary Market Transaction, shall be subject to the prior Written Consent of the Funding Lender or the Servicer, as applicable.

**Section 10.8. Construction of Documents.** The parties hereto acknowledge that they were represented by counsel in connection with the negotiation and drafting of the Borrower Loan Documents and the Funding Loan Documents and that the Borrower Loan Documents and the Funding Loan

Documents shall not be subject to the principle of construing their meaning against the party that drafted them.

**Section 10.9. No Third Party Beneficiaries.** The Borrower Loan Documents and the Funding Loan Documents are solely for the benefit of the Governmental Lender, the Funding Lender, the Servicer and the Borrower and, with respect to Sections 9.1.3 and 9.1.4 hereof, the Underwriter Group, and nothing contained in any Borrower Loan Document shall be deemed to confer upon anyone other than the Governmental Lender, the Funding Lender, the Servicer, and the Borrower any right to insist upon or to enforce the performance or observance of any of the obligations contained therein.

**Section 10.10. Assignment.** The Borrower Loan, the Security Instrument, the Borrower Loan Documents and the Funding Loan Documents and all Funding Lender's rights, title, obligations and interests therein may be assigned by the Funding Lender, at any time in its sole discretion, whether by operation of law (pursuant to a merger or other successor in interest) or otherwise. Upon such assignment, all references to Funding Lender in this Borrower Loan Agreement and in any Borrower Loan Document shall be deemed to refer to such assignee or successor in interest and such assignee or successor in interest shall thereafter stand in the place of the Funding Lender. Borrower shall accord full recognition to any such assignment, and all rights and remedies of Funding Lender in connection with the interest so assigned shall be as fully enforceable by such assignee as they were by Funding Lender before such assignment. In connection with any proposed assignment, Funding Lender may disclose to the proposed assignee any information that Borrower has delivered, or caused to be delivered, to Funding Lender with reference to Borrower, General Partner, Guarantor or any Affiliate, or the Project, including information that Borrower is required to deliver to Funding Lender pursuant to this Borrower Loan Agreement, provided that such proposed assignee agrees to treat such information as confidential. The Borrower may not assign its rights, interests or obligations under this Borrower Loan Agreement or under any of the Borrower Loan Documents or Funding Loan Documents, or Borrower's interest in any moneys to be disbursed or advanced hereunder, except only as may be expressly permitted hereby.

**Section 10.11. [Intentionally Omitted].**

**Section 10.12. Governmental Lender, Funding Lender and Servicer Not in Control; No Partnership.** None of the covenants or other provisions contained in this Borrower Loan Agreement shall, or shall be deemed to, give the Governmental Lender, the Funding Lender or the Servicer the right or power to exercise control over the affairs or management of the Borrower, the power of the Governmental Lender, the Funding Lender and the Servicer being limited to the rights to exercise the remedies referred to in the Borrower Loan Documents and the Funding Loan Documents. The relationship between the Borrower and the Governmental Lender, the Funding Lender and the Servicer is, and at all times shall remain, solely that of debtor and creditor. No covenant or provision of the Borrower Loan Documents or the Funding Loan Documents is intended, nor shall it be deemed or construed, to create a partnership, joint venture, agency or common interest in profits or income between the Borrower and the Governmental Lender, the Funding Lender or the Servicer or to create an equity in the Project in the Governmental Lender, the Funding Lender or the Servicer. Neither the Governmental Lender, the Funding Lender nor the Servicer undertakes or assumes any responsibility or duty to the Borrower or to any other person with respect to the Project or the Borrower Loan, except as expressly provided in the Borrower Loan Documents or the Funding Loan Documents; and notwithstanding any other provision of the Borrower Loan Documents and the Funding Loan Documents: (1) the Governmental Lender, the Funding Lender and the Servicer are not, and shall not be construed as, a partner, joint venturer, alter ego, General Partner, controlling person or other business associate or participant of any kind of the Borrower or its stockholders, members, or partners and the Governmental Lender, the Funding Lender and the Servicer do not intend to ever assume such status; (2) the Governmental Lender, the Funding Lender and the Servicer shall in no event be liable for any the Borrower Payment Obligations, expenses or losses

incurred or sustained by the Borrower; and (3) the Governmental Lender, the Funding Lender and the Servicer shall not be deemed responsible for or a participant in any acts, omissions or decisions of the Borrower, the Borrower Controlling Entities or its stockholders, members, or partners. The Governmental Lender, the Funding Lender and the Servicer and the Borrower disclaim any intention to create any partnership, joint venture, agency or common interest in profits or income between the Governmental Lender, the Funding Lender, the Servicer and the Borrower, or to create an equity in the Project in the Funding Lender or the Servicer, or any sharing of liabilities, losses, costs or expenses.

**Section 10.13. Release.** The Borrower hereby acknowledges that it is executing this Borrower Loan Agreement and each of the Borrower Loan Documents and the Funding Loan Documents to which it is a party as its own voluntary act free from duress and undue influence.

**Section 10.14. Term of Borrower Loan Agreement.** This Borrower Loan Agreement shall be in full force and effect until all payment obligations of the Borrower hereunder have been paid in full and the Borrower Loan and the Funding Loan have been retired or the payment thereof has been provided for; except that on and after the indefeasible payment in full of the Borrower Note, this Borrower Loan Agreement shall be terminated, without further action by the parties hereto; provided, however, that the obligations of the Borrower under Sections 5.11 (Governmental Lender's Fees), 5.14 (Expenses), 5.15 (Indemnity), 9.1.3, 9.1.4, 9.1.5, 9.1.6 and 10.15 (Reimbursement of Expenses) hereof, as well as under Section [ ] of the Construction Funding Agreement, shall survive the termination of this Borrower Loan Agreement.

**Section 10.15. Reimbursement of Expenses.** If, upon or after the occurrence of any Event of Default or Potential Default, the Governmental Lender, the Funding Lender or the Servicer shall employ attorneys or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the Borrower contained herein, the Borrower will on demand therefor reimburse the Governmental Lender, the Funding Lender and the Servicer for fees of such attorneys and such other expenses so incurred.

The Borrower's obligation to pay the amounts required to be paid under this Section 10.15 shall be subordinate to its obligations to make payments under the Borrower Note.

**Section 10.16. Permitted Contests.** Notwithstanding anything to the contrary contained in this Borrower Loan Agreement, Borrower shall have the right to contest or object in good faith to any claim, demand, levy or assessment (other than in respect of Debt or Contractual Obligations of Borrower under any Borrower Loan Document or Related Document) by appropriate legal proceedings that are not prejudicial to Funding Lender's rights, but this shall not be deemed or construed as in any way relieving, modifying or providing any extension of time with respect to Borrower's covenant to pay and comply with any such claim, demand, levy or assessment, unless Borrower shall have given prior Written Notice to the Governmental Lender and the Funding Lender of Borrower's intent to so contest or object thereto, and unless (i) Borrower has, in the Governmental Lender's and the Funding Lender's judgment, a reasonable basis for such contest, (ii) Borrower pays when due any portion of the claim, demand, levy or assessment to which Borrower does not object, (iii) Borrower demonstrates to Funding Lender's satisfaction that such legal proceedings shall conclusively operate to prevent enforcement prior to final determination of such proceedings, (iv) Borrower furnishes such bond, surety, undertaking or other security in connection therewith as required by law, or as requested by and satisfactory to Funding Lender, to stay such proceeding, which bond, surety, undertaking or other security shall be issued by a bonding company, insurer or surety company reasonably satisfactory to Funding Lender and shall be sufficient to cause the claim, demand, levy or assessment to be insured against by the Title Company or removed as a lien against the Project, (v) Borrower at all times prosecutes the contest with due diligence, and (vi) Borrower pays, promptly following a determination of the amount of such claim, demand, levy or

assessment due and owing by Borrower, the amount so determined to be due and owing by Borrower. In the event that Borrower does not make, promptly following a determination of the amount of such claim, demand, levy or assessment due and owing by Borrower, any payment required to be made pursuant to clause (vi) of the preceding sentence, an Event of Default shall have occurred, and Funding Lender may draw or realize upon any bond or other security delivered to Funding Lender in connection with the contest by Borrower, in order to make such payment.

**Section 10.17. Funding Lender Approval of Instruments and Parties.** All proceedings taken in accordance with transactions provided for herein, and all surveys, appraisals and documents required or contemplated by this Borrower Loan Agreement and the persons responsible for the execution and preparation thereof, shall be satisfactory to and subject to approval by Funding Lender. Funding Lender's approval of any matter in connection with the Project shall be for the sole purpose of protecting the security and rights of Funding Lender. No such approval shall result in a waiver of any default of Borrower. In no event shall Funding Lender's approval be a representation of any kind with regard to the matter being approved.

**Section 10.18. Funding Lender Determination of Facts.** Funding Lender shall at all times be free to establish independently, to its reasonable satisfaction, the existence or nonexistence of any fact or facts, the existence or nonexistence of which is a condition of this Borrower Loan Agreement.

**Section 10.19. Calendar Months.** With respect to any payment or obligation that is due or required to be performed within a specified number of Calendar Months after a specified date, such payment or obligation shall become due on the day in the last of such specified number of Calendar Months that corresponds numerically to the date so specified; provided, however, that with respect to any obligation as to which such specified date is the 29th, 30th or 31st day of any Calendar Month: if the Calendar Month in which such payment or obligation would otherwise become due does not have a numerically corresponding date, such obligation shall become due on the first day of the next succeeding Calendar Month.

**Section 10.20. Determinations by Lender.** Except to the extent expressly set forth in this Borrower Loan Agreement to the contrary, in any instance where the consent or approval of the Governmental Lender and the Funding Lender may be given or is required, or where any determination, judgment or decision is to be rendered by the Governmental Lender and the Funding Lender under this Borrower Loan Agreement, the granting, withholding or denial of such consent or approval and the rendering of such determination, judgment or decision shall be made or exercised by the Governmental Lender and the Funding Lender, as applicable (or its designated representative) at its sole and exclusive option and in its sole and absolute discretion.

**Section 10.21. Governing Law.** This Borrower Loan Agreement shall be governed by and enforced in accordance with the laws of the State, without giving effect to the choice of law principles of the State that would require the application of the laws of a jurisdiction other than the State.

**Section 10.22. Consent to Jurisdiction and Venue.** Borrower agrees that any controversy arising under or in relation to this Borrower Loan Agreement shall be litigated exclusively in the State. The state and federal courts and authorities with jurisdiction in the State shall have exclusive jurisdiction over all controversies which shall arise under or in relation to this Borrower Loan Agreement. Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. However, nothing herein is intended to limit Beneficiary Parties' right to bring any suit, action or proceeding relating to matters arising under this Borrower Loan Agreement against Borrower or any of Borrower's assets in any court of any other jurisdiction.

**Section 10.23. Successors and Assigns.** This Borrower Loan Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, successors-in-interest and assigns, as appropriate. The terms used to designate any of the parties herein shall be deemed to include the heirs, legal representatives, successors, successors-in-interest and assigns, as appropriate, of such parties. References to a "person" or "persons" shall be deemed to include individuals and entities.

**Section 10.24. Severability.** The invalidity, illegality or unenforceability of any provision of this Borrower Loan Agreement shall not affect the validity, legality or enforceability of any other provision, and all other provisions shall remain in full force and effect.

**Section 10.25. Entire Agreement; Amendment and Waiver.** This Borrower Loan Agreement contains the complete and entire understanding of the parties with respect to the matters covered. This Borrower Loan Agreement may not be amended, modified or changed, nor shall any waiver of any provision hereof be effective, except by a written instrument signed by the party against whom enforcement of the waiver, amendment, change, or modification is sought, and then only to the extent set forth in that instrument. No specific waiver of any of the terms of this Borrower Loan Agreement shall be considered as a general waiver. Without limiting the generality of the foregoing, no Disbursement shall constitute a waiver of any conditions to the Governmental Lender's or the Funding Lender's obligation to make further Disbursements nor, in the event Borrower is unable to satisfy any such conditions, shall any such waiver have the effect of precluding the Governmental Lender or the Funding Lender from thereafter declaring such inability to constitute a Potential Default or Event of Default under this Borrower Loan Agreement.

**Section 10.26. Counterparts.** This Borrower Loan Agreement may be executed in multiple counterparts, each of which shall constitute an original document and all of which together shall constitute one agreement.

**Section 10.27. Captions.** The captions of the sections of this Borrower Loan Agreement are for convenience only and shall be disregarded in construing this Borrower Loan Agreement.

**Section 10.28. Servicer.** Borrower hereby acknowledges and agrees that, pursuant to the terms of the Borrower Loan Documents: (a) from time to time, the Governmental Lender or the Funding Lender may appoint a servicer to collect payments, escrows and deposits, to give and to receive notices under the Borrower Note, this Borrower Loan Agreement or the other Borrower Loan Documents, and to otherwise service the Borrower Loan and (b) unless Borrower receives Written Notice from the Governmental Lender or the Funding Lender to the contrary, any action or right which shall or may be taken or exercised by the Governmental Lender or the Funding Lender may be taken or exercised by such servicer with the same force and effect.

**Section 10.29. Beneficiary Parties as Third Party Beneficiary.** Each of the Beneficiary Parties shall be a third party beneficiary of this Borrower Loan Agreement for all purposes.

**Section 10.30. Waiver of Trial by Jury.** TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, EACH OF BORROWER AND THE BENEFICIARY PARTIES (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS BORROWER LOAN AGREEMENT OR THE RELATIONSHIP BETWEEN THE PARTIES THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY

JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

**Section 10.31. Time of the Essence.** Time is of the essence with respect to this Borrower Loan Agreement.

**Section 10.32. [Reserved]**

**Section 10.33. Reference Date.** This Borrower Loan Agreement is dated for reference purposes only as of the first day of \_\_\_\_\_, 2024, and will not be effective and binding on the parties hereto unless and until the Closing Date (as defined herein) occurs.

#### ARTICLE XI LIMITATIONS ON LIABILITY

**Section 11.1. Limitation on Liability.** Notwithstanding anything to the contrary herein, the liability of the Borrower hereunder and under the other Borrower Loan Documents and the Funding Loan Documents shall be limited to the extent set forth in the Borrower Note.

**Section 11.2. Limitation on Liability of Governmental Lender.** The Funding Loan, and interest thereon, are special, limited obligations of the Governmental Lender, payable solely from the Security pledged under the Funding Loan Agreement. The Funding Loan is not a general indebtedness of the Governmental Lender or a charge against its general credit or the general credit taxing powers of the State, the Governmental Lender, or any other political subdivision thereof, and shall never give rise to any pecuniary liability of the Governmental Lender, and neither the Governmental Lender, the State nor any other political subdivision thereof shall be liable for the payments of principal and interest on the Funding Loan, and the Funding Loan is payable from no other source, but are special, limited obligations of the Governmental Lender, payable solely out of the security pledged hereunder and receipts of the Governmental Lender derived pursuant to this Funding Loan Agreement (and not against any money due or to become due to the Governmental Lender pursuant to Unassigned Rights). No holder of the Funding Loan or any interest therein has the right to compel any exercise of the taxing power of the State, the Governmental Lender or any other political subdivision thereof to pay the Funding Loan or the interest thereon.

No recourse shall be had for the payment of the principal of, premium, if any, or the interest on the Funding Loan or for any claim based thereon or any obligation, covenant or agreement in this Funding Loan Agreement against any official of the Governmental Lender, or any official, officer, agent, employee or independent contractor of the Governmental Lender or any person executing this Borrower Loan Agreement. No covenant, stipulation, promise, agreement or obligation contained in this Borrower Loan Agreement or any other document executed in connection herewith shall be deemed to be the covenant, stipulation, promise, agreement or obligation of any present or future official, officer, agent or employee of the Governmental Lender in his or her individual capacity and neither any official of the Governmental Lender nor any officers executing this Borrower Loan Agreement shall be liable personally or be subject to any personal liability or accountability by reason of this Borrower Loan Agreement.

**Section 11.3. Waiver of Personal Liability.** No member, officer, agent or employee of the Governmental Lender or any director, officer, agent or employee of the Governmental Lender shall be individually or personally liable for the payment of any principal (or prepayment price) of or interest on the Governmental Lender Note or any other sum hereunder or be subject to any personal liability or accountability by reason of the execution and delivery of this Borrower Loan Agreement; but nothing

herein contained shall relieve any such member, director, officer, agent or employee from the performance of any official duty provided by law or by this Borrower Loan Agreement.

**Section 11.4. Limitation on Liability of Funding Lender's Officers, Employees, Etc.**

(a) Borrower assumes all risks of the acts or omissions of the Governmental Lender and the Funding Lender (except to the extent that such acts or omissions constitute gross negligence or willful misconduct), provided, however, this assumption is not intended to, and shall not, preclude Borrower from pursuing such rights and remedies as it may have against the Governmental Lender and the Funding Lender at law or under any other agreement. None of Governmental Lender and the Funding Lender, nor the other Beneficiary Parties or their respective officers, directors, employees or agents shall be liable or responsible for (i) for any acts or omissions of the Governmental Lender and the Funding Lender; or (ii) the validity, sufficiency or genuineness of any documents, or endorsements, even if such documents should in fact prove to be in any or all respects invalid, insufficient, fraudulent or forged. In furtherance and not in limitation of the foregoing, the Governmental Lender and the Funding Lender may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, unless acceptance in light of such notice or information constitutes gross negligence or willful misconduct on the part of the Governmental Lender and the Funding Lender.

(b) None of the Governmental Lender the Funding Lender, the other Beneficiary Parties or any of their respective officers, directors, employees or agents shall be liable to any contractor, subcontractor, supplier, laborer, architect, engineer or any other party for services performed or materials supplied in connection with the Project. The Governmental Lender and the Funding Lender shall not be liable for any debts or claims accruing in favor of any such parties against Borrower or others or against the Project. Borrower is not and shall not be an agent of the Governmental Lender and the Funding Lender for any purpose. Neither the Governmental Lender nor the Funding Lender is a joint venture partner with Borrower in any manner whatsoever. Prior to default by Borrower under this Borrower Loan Agreement and the exercise of remedies granted herein, the Governmental Lender and the Funding Lender shall not be deemed to be in privity of contract with any contractor or provider of services to the Project, nor shall any payment of funds directly to a contractor, subcontractor or provider of services be deemed to create any third party beneficiary status or recognition of same by the Governmental Lender and the Funding Lender. Approvals granted by the Governmental Lender and the Funding Lender for any matters covered under this Borrower Loan Agreement shall be narrowly construed to cover only the parties and facts identified in any written approval or, if not in writing, such approvals shall be solely for the benefit of Borrower.

(c) Any obligation or liability whatsoever of the Governmental Lender and the Funding Lender that may arise at any time under this Borrower Loan Agreement or any other Borrower Loan Document shall be satisfied, if at all, out of the Funding Lender's assets only. No such obligation or liability shall be personally binding upon, nor shall resort for the enforcement thereof be had to, the Project or any of the Governmental Lender's or the Funding Lender's shareholders (if any), directors, officers, employees or agents, regardless of whether such obligation or liability is in the nature of contract, tort or otherwise.

**Section 11.5. Delivery of Reports, Etc.** The delivery of reports, information and documents to the Governmental Lender and the Funding Lender as provided herein is for informational purposes only and the Governmental Lender's and the Funding Lender's receipt of such shall not constitute constructive knowledge of any information contained therein or determinable from information contained

therein. The Governmental Lender and the Funding Lender shall have no duties or responsibilities except those that are specifically set forth herein, and no other duties or obligations shall be implied in this Borrower Loan Agreement against the Governmental Lender and the Funding Lender.

**IN WITNESS WHEREOF**, the undersigned has duly executed and delivered this Borrower Loan Agreement or caused this Borrower Loan Agreement to be duly executed and delivered by its authorized representative as of the date first set forth above. The undersigned intends that this instrument shall be deemed to be signed and delivered as a sealed instrument.

**BORROWER:**

**CARE Manor I L.P.,**  
an Illinois limited partnership

**By: CARE Manor Inc.,**  
an Illinois not-for-profit corporation  
its sole general partner

By: \_\_\_\_\_  
Name: David T. Whittley  
Title: President of CARE Manor Inc.

**GOVERNMENTAL LENDER:**

**CITY OF CHICAGO**

By: \_\_\_\_\_  
Name: Jill Jaworski  
Title: Chief Financial Officer

[SEAL]

Attest:

By: \_\_\_\_\_  
Name: Andrea M. Valencia  
Title: City Clerk

Agreed to and Acknowledged by:

**CIBC BANK USA, as Funding Lender**

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

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

**THE COMMUNITY DEVELOPMENT TRUST, LP,**  
as Note Purchaser pursuant to the Forward Bond  
Purchase Agreement and, which, upon the endorsement  
and delivery of the Governmental Lender Note, shall  
succeed to the rights and interests of the Funding Lender  
under this Borrower Loan Agreement in accordance  
with Section 10.10 hereof

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

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

*Exhibit "D".*  
(To Ordinance)

*Land Use Restriction Agreement.*

**THIS LAND USE RESTRICTION AGREEMENT** (this "Agreement"), entered into as of \_\_\_\_\_, 2024, between the **CITY OF CHICAGO**, a municipal corporation and home rule unit of local government duly organized and validly existing under the Constitution and laws of the State of Illinois (the "Issuer"), and **CARE MANOR 1, L.P.**, an Illinois limited partnership (the "Owner"),

**WITNESSETH:**

WHEREAS, pursuant to an ordinance adopted by the Issuer on \_\_\_\_\_, 2024 (the "Ordinance") and a funding loan agreement (the "Funding Loan Agreement") with CIBC Bank USA, a national banking association (together with its successors and assigns, the "Funding Lender"), pursuant to which the Issuer will borrow an aggregate principal amount not to exceed Fifteen Million Dollars (\$15,000,000) (the "Funding Loan") and in evidence of its limited, special obligation to repay that borrowing, issue a tax-exempt revenue note, to be designated as the Multi-Family Housing Revenue Note, 2024 Series A (CARE Manor) (the "Governmental Note") under the terms and conditions of the Ordinance and the Funding Loan Agreement; and

WHEREAS, the proceeds derived from the issuance and sale of the Governmental Note have been lent by the Issuer to the Owner pursuant to a borrower loan agreement of even date herewith (the "Borrower Loan Agreement"), between the Issuer and the Owner for the purpose of financing a portion of the costs of acquiring, leasing, constructing and equipping of one newly-constructed multifamily, low- and moderate-income residential rental building to be known as CARE Manor consisting of a 3-story building with 44 units including 1 one-bedroom, 29 two-bedroom units, 14 three bedroom units, all of which will be rented to households earning up to 60% of area median income, and 21 parking spaces (together with related common areas, parking lot facilities, and related amenities including on-site laundry facilities, the "Project" or the "Bond Project"), on property located at 4531-4555 West Washington Boulevard in Chicago, Cook County, Illinois, as more particularly described on *Exhibit A* hereto (collectively, the "Property"), and to pay a portion of the costs of issuance and other costs incurred in connection therewith; and

WHEREAS, in order to assure the Issuer and the Funding Lender that interest on the Governmental Note will be excluded from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (the "Code"), and to further the public purposes of the Issuer, certain restrictions on the use and occupancy of the Project under the Code must be established;

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, and of other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the Owner and the Issuer agree as follows:

**Section 1. Term of Restrictions.**

(a) **Occupancy Restrictions.** The term of the Occupancy Restrictions set forth in Section 3 hereof shall commence on the first day on which at least 10% of the units are first occupied following completion of such units and shall end on the latest of (i) the date which is 15 years after the date on which at least 50% of the units in the Project are first occupied; (ii) the first date on which no tax-exempt note or bond (including any refunding note or bond) issued with respect to the Project is outstanding (treating, for such purpose, the Project as being financed in part by the Governmental Note); or (iii) the date on which any housing assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937, as amended, terminates (which period is hereinafter referred with respect to the Project as the "Qualified Project Period").

(b) **Rental Restrictions.** The Rental Restrictions with respect to the Project set forth in Section 4 hereof shall remain in effect during the Qualified Project Period.

(c) **Involuntary Loss or Substantial Destruction.** The Occupancy Restrictions set forth in Section 3 hereof, and the Rental Restrictions set forth in Section 4 hereof, shall cease to apply to the Project in the event of involuntary noncompliance caused by fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in federal law or an action of a federal agency (with respect to the Project) after the date of delivery of the Governmental Note, which prevents the Issuer from enforcing the Occupancy Restrictions and the Rental Restrictions (with respect to the Project), or condemnation or similar event (with respect to the Project), but only if, within a reasonable time, (i) all of the Governmental Note is promptly retired, or amounts received as a consequence of such event are used to provide a new project which meets all of the requirements of this Agreement, which new project is subject to new restrictions substantially equivalent to those contained in this Agreement, and which is substituted in place of the Project by amendment of this Agreement; and (ii) an opinion from nationally recognized bond counsel (selected by the Issuer) is received to the effect that noncompliance with the Occupancy Restrictions and the Rental Restrictions applicable to the Project as a result of such involuntary loss or substantial destruction resulting from an unforeseen event with respect to the Project will not adversely affect the exclusion of the interest on the Governmental Note from the gross incomes of the owners thereof for purposes of federal income taxation; provided, however, that the preceding provisions of this paragraph shall cease to apply in the case of such involuntary noncompliance caused by foreclosure, transfer of title by deed in lieu of foreclosure or similar event if at any time during the Qualified Project Period with respect to the Project subsequent to such event the Owner or any Affiliated Party (as hereinafter defined) obtains an ownership interest in the Project for federal income tax purposes. "Affiliated Party" means a person whose relationship to another person is such that (i) the relationship between such persons would result in a disallowance of losses under Section 267 or 707(b) of the Code; or (ii) such persons are members of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that "more than 50%" shall be substituted for "at least 80%" each place it appears therein).

(d) **Termination.** This Agreement shall terminate with respect to the Project upon the earliest of (i) termination of the Occupancy Restrictions and the Rental Restrictions with respect to the Project, as provided in paragraphs (a) and (b) of this Section 1; or (ii) delivery to the Issuer and the Owner of an opinion of nationally recognized bond counsel (selected by the Issuer) to the effect that continued compliance of the Project with the Rental Restrictions and the Occupancy Restrictions applicable to the Project is not required in order for interest on the Governmental Note to remain excludible from gross income for federal income tax purposes.

(e) **Certification.** Upon termination of this Agreement, the Owner and the Issuer shall execute and cause to be recorded (at the Owner's expense), in all offices in which this Agreement was recorded, a certificate of termination, specifying which of the restrictions contained herein has terminated.

(f) **Encumbrance of Fee.** In furtherance of enforcing compliance with the provisions of Section 142(d) of the Code and Section 1.103-8(b) of the Regulations applicable to this Agreement, unless the provisions of paragraph (c) or (d) above apply to the Project resulting in a termination of the restrictions set forth herein, such restrictions shall continue to apply to the Project following the termination of the Owner's or any other party's fee simple estate therein, whether or not the Project is thereafter released by the Issuer.

**Section 2. Project Restrictions.** The Owner represents, warrants and covenants that:

(a) The Owner has reviewed the provisions of the Code and the Treasury Regulations thereunder (the “Regulations”) applicable to this Agreement (including, without limitation, Section 142(d) of the Code and Section 1.103-8(b) of the Regulations) with its counsel and understands said provisions.

(b) The Project is being acquired, leased, constructed and equipped for the purpose of providing a “qualified residential rental project” (as such phrase is used in Section 142(d) of the Code) and will, during the term of the Rental Restrictions and Occupancy Restrictions hereunder applicable to the Project continue to constitute a “qualified residential rental project” under Section 142(d) of the Code and any Regulations heretofore or hereafter promulgated thereunder and applicable thereto.

(c) Substantially all (not less than 95%) of the Project will consist of a “building or structure” (as defined in Section 1.103-8(b)(8)(iv) of the Regulations), or several proximate buildings or structures, of similar construction, each containing one or more similarly constructed residential units (as defined in Section 1.103-8(b)(8)(i) of the Regulations) located on a single tract of land or contiguous tracts of land (as defined in Section 1.103-8(b)(4)(ii)-(B) of the Regulations), which will be owned, for federal tax purposes, at all times by the same person, and financed pursuant to a common plan (within the meaning of Section 1.103-8(b)(4)(ii) of the Regulations), together with functionally related and subordinate facilities (within the meaning of Section 1.103-8(b)(4)(iii) of the Regulations). If any such building or structure contains fewer than five (5) units, no unit in such building or structure shall be Owner-occupied.

(d) None of the units in the Project will at any time be used on a transient basis, nor will any Project itself be used as a hotel, motel, dormitory, fraternity or sorority house, rooming house, hospital, nursing home, sanitarium, rest home or trailer park or court for use on a transient basis; nor shall any portion of the Project be operated as an assisted living facility which provides continual or frequent nursing, medical or psychiatric services; provided, however that nothing herein shall be understood to prohibit single room occupancy units occupied under month to month leases.

(e) All of the units in the Project will be leased or rented, or available for lease or rental, on a continuous basis to members of the general public (other than (i) units for resident managers or maintenance personnel, (ii) units for Qualifying Tenants as provided for in Section 3 hereof, and (iii) units which may be rented under the public housing program, which units (subject to the public housing program) shall be leased to eligible tenants in accordance with public housing requirements), subject, however, to the requirements of Section 3(a) hereof. Each Qualifying Tenant (as hereinafter defined) occupying a Unit in the Project shall be required to execute a written lease with a stated term of not less than 30 days nor more than one year.

(f) Any functionally related and subordinate facilities (e.g., parking areas, swimming pools, tennis courts, etc.) which are included as part of any Project, will be of a character and size commensurate with the character and size of such Project and will be made available to all tenants in the Project on an equal basis; fees will only be charged with respect to the use thereof if the charging of fees is customary for the use of such facilities at similar residential rental properties in the surrounding area (i.e., within a one-mile radius), or, if none, then within comparable urban settings in the City of Chicago, and then only in amounts commensurate with the fees being charged at similar residential rental properties within such area. In any event, any fees charged will not be discriminatory or exclusionary as to the Qualifying Tenants (as defined in Section 3 hereof). No functionally related and subordinate facilities will be made available to persons other than tenants or their guests.

(g) Each residential unit in the Project will contain separate and complete facilities for living, sleeping, eating, cooking and sanitation for a single person or family.

(h) No portion of the Project will be used to provide any health club facility (except as provided in (f) above), any facility primarily used for gambling, or any store, the principal business of which is the sale of alcoholic beverages for consumption off premises, in violation of Section 147(e) of the Code.

**Section 3. Occupancy Restrictions.** The Owner represents, warrants and covenants with respect to the Project that:

(a) Pursuant to the election of the Issuer in accordance with the provisions of Section 142(d)(1)(A) of the Code, at all times during the Qualified Project Period with respect to the Project at least 40% of the completed units in the Project shall be continuously occupied (or treated as occupied as provided herein) or held available for occupancy by Qualifying Tenants as herein defined. For purposes of this Agreement, "Qualifying Tenants" means individuals or families whose aggregate adjusted incomes do not exceed 60% of the applicable median gross income (adjusted for family size) for the area in which the Project is located, as such income and area median gross income are determined by the Secretary of the United States Treasury in a manner consistent with determinations of income and area median gross income under Section 9 of the United States Housing Act of 1937, as amended (or, if such program is terminated, under such program as in effect immediately before such determination).

(b) Prior to the commencement of occupancy of any unit to be occupied by a Qualifying Tenant, the prospective tenant's eligibility shall be established by execution and delivery by such prospective tenant of an Income Computation and Certification in the form attached hereto as **Exhibit B** (the "Income Certification") evidencing that the aggregate adjusted income of such prospective tenant does not exceed the applicable income limit. In addition, such prospective tenant shall be required to provide whatever other information, documents or certifications are reasonably deemed necessary by the Owner or the Issuer to substantiate the Income Certification.

(c) Not less frequently than annually, the Owner shall determine whether the current aggregate adjusted income of each tenant occupying any unit being treated by the Owner as occupied by a Qualifying Tenant exceeds the applicable income limit. For such purpose the Owner shall require each such tenant to execute and deliver the Income Certification; *provided, however*, that for any calendar year during which no unit in the Project is occupied by a new resident who is not a qualifying tenant, no Income Computation and Certification for existing tenants shall be required.

(d) Any unit vacated by a Qualifying Tenant shall be treated as continuing to be occupied by such tenant until reoccupied, other than for a temporary period not to exceed 31 days, at which time the character of such unit as a unit occupied by a Qualifying Tenant shall be redetermined.

(e) If an individual's or family's income exceeds the applicable income limit as of any date of determination, the income of such individual or family shall be treated as continuing not to exceed the applicable limit, provided that the income of an individual or family did not exceed the applicable income limit upon commencement of such tenant's occupancy or as of any prior income determination, and provided, further, that if any individual's or family's income as of the most recent income determination exceeds 140% of the applicable income limit, such individual or family shall cease to qualify as a Qualifying Tenant if, prior to the next income determination of such individual or family, any unit in the Project of comparable or smaller size to such individual's or family's unit is occupied by any tenant other than a Qualifying Tenant.

(f) The lease to be utilized by the Owner in renting any Unit in the Project to a prospective Qualifying Tenant shall provide for termination of the lease and consent by such person to eviction following 30 days' written notice, subject to applicable provisions of Illinois law (including for such purpose

all applicable home rule ordinances), for any material misrepresentation made by such person with respect to the Income Certification with the effect that such tenant is not a Qualified Tenant.

(g) All Income Certifications will be maintained on file at the Project as long as the Governmental Note is outstanding and for five years thereafter with respect to each Qualifying Tenant who occupied a Unit in the Project during the period the restrictions hereunder are applicable, and the Owner will, promptly upon receipt, file a copy thereof with the Issuer.

(h) On the first day of the Qualified Project Period with respect to a Project and on the fifteenth days of January, April, July and October of each year during the Qualified Project Period with respect to such Project, and within 30 days after the final day of each month in which there occurs any change in the occupancy of a Unit in such Project, the Owner will submit to the Issuer a "Certificate of Continuing Program Compliance," in the form attached hereto as Exhibit C executed by the Owner with respect to the Project.

(i) The Owner shall submit to the Secretary of the United States Treasury (at such time and in such manner as the Secretary shall prescribe) with respect to the project, an annual certification on Form 8703 as to whether such Project continues to meet the requirements of Section 142(d) of the Code. Failure to comply with such requirement may subject the Owner to the penalty provided in Section 6652(j) of the Code.

**Section 4. Rental Restrictions.** The Owner represents, warrants and covenants with respect to the Project, that once available for occupancy, each Unit in the Project will be rented or available for rental on a continuous basis to members of the general public (other than (a) units for resident managers or maintenance personnel, (b) units for Qualifying Tenants as provided for in Section 3 hereof, and (c) units which may be rented under the public housing assistance program, which units (subject to the public housing program) shall be leased to eligible tenants in accordance with public housing requirements).

**Section 5. Transfer Restrictions.** The Owner covenants and agrees that no conveyance, transfer, assignment or any other disposition of title to any portion of the Project (a "Transfer") shall be made prior to the termination of the Rental Restrictions and Occupancy Restrictions hereunder with respect to the Project, unless the transferee pursuant to the Transfer assumes in writing (the "Assumption Agreement"), in a form reasonably acceptable to the Issuer, all of the executory duties and obligations hereunder of the Owner with respect to such portion of the Project, including those contained in this Section 5, and agrees to cause any subsequent transferee to assume such duties and obligations in the event of a subsequent Transfer by the transferee prior to the termination of the Rental Restrictions and Occupancy Restrictions hereunder with respect to the Project. The Owner shall deliver the Assumption Agreement to the Issuer at least 30 days prior to a proposed Transfer. This Section 5 shall not apply to any involuntary transfer pursuant to Section 1(c) hereof. This Section shall not be deemed to restrict the transfer of any membership interest in the Owner or a transfer by foreclosure or deed in lieu of foreclosure.

**Section 6. Enforcement.**

(a) The Owner shall permit all duly authorized representatives of the Issuer to inspect any books and records of the Owner regarding the Project and the incomes of Qualifying Tenants which pertain to compliance with the provisions of this Agreement and Section 142(d) of the Code and the regulations heretofore or hereafter promulgated thereunder.

(b) In addition to the information provided for in Section 3(i) hereof, the Owner shall submit any other information, documents or certifications reasonably requested by the Issuer, which the Issuer

deems reasonably necessary to substantiate continuing compliance with the provisions of this Agreement and Section 142(d) of the Code and the regulations heretofore or hereafter promulgated thereunder.

(c) The Issuer and the Owner each covenant that it will not take or permit to be taken any action within its control that it knows would adversely affect the exclusion of interest on the Governmental Note from the gross income of the owners thereof for purposes of federal income taxation pursuant to Section 103 of the Code. Moreover, each covenants to take any lawful action within its control (including amendment of this Agreement as may be necessary in the opinion of nationally recognized bond counsel selected by the Issuer) to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service from time to time pertaining to obligations issued under Section 142(d) of the Code and affecting the Project.

(d) The Owner covenants and agrees to inform the Issuer by written notice of any violation of its obligations hereunder within five days of first discovering any such violation. If any such violation is not corrected to the satisfaction of the Issuer within the period of time specified by either the Issuer, which shall be (i) the lesser of (A) 60 days after the effective date of any notice to or from the Owner, or (B) 75 days from the date such violation would have been discovered by the Owner by the exercise of reasonable diligence, or (ii) such longer period as may be necessary to cure such violation, provided bond counsel (selected by the Issuer) of nationally recognized standing in matters pertaining to the exclusion of interest on municipal bonds from gross income for purposes of federal income taxation issues an opinion that such extension will not result in the loss of such exclusion of interest on the Governmental Note, without further notice, the Issuer shall declare a default under this Agreement effective on the date of such declaration of default, and the Issuer shall apply to any, court, state or federal, for specific performance of this Agreement or an injunction against any violation of this Agreement, or any other remedies at law or in equity or any such other actions as shall be necessary or desirable so as to correct noncompliance with this Agreement.

(e) The Owner and the Issuer each acknowledge that the primary purposes for requiring compliance with the restrictions provided in this Agreement are to preserve the exclusion of interest on the Governmental Note from gross income for purposes of federal income taxation, and that the Issuer, on behalf of the owners of the Governmental Note, who are declared to be third-party beneficiaries of this Agreement, shall be entitled for any breach of the provisions hereof, to all remedies both at law and in equity in the event of any default hereunder.

(f) In the enforcement of this Agreement, the Issuer may rely on any certificate delivered by or on behalf of the Owner or any tenant with respect to the Project.

(g) Nothing in this Section shall preclude the Issuer from exercising any remedies it might otherwise have, by contract, statute or otherwise, upon the occurrence of any violation hereunder.

(h) Notwithstanding anything to the contrary contained herein, the Issuer hereby agrees that any cure of any default made or tendered by one or more of the Owner's partners shall be deemed to be a cure by the Owner and shall be accepted or rejected on the same basis as if made or tendered by the Owner.

**Section 7. Covenants to Run with the Land.** The Owner hereby subjects the Project, and the units to the covenants, reservations and restrictions set forth in this Agreement. The Issuer and the Owner hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants, reservations and restrictions running with the land to the extent permitted by law, and shall pass to and be binding upon the Owner's successors in title to the Project, the units, and the Property, throughout the term of this Agreement. Each and every contract, deed, mortgage, lease or other instrument hereafter executed covering or conveying the Project, the units, or any portion thereof or interest

therein (excluding any transferee of a membership interest in the Owner), shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed, mortgage, lease or other instrument.

**Section 8. Recording.** The Owner shall cause this Agreement and all amendments and supplements hereto to be recorded in the conveyance and real property records of Cook County, Illinois, and in such other places as the Issuer may reasonably request. The Owner shall pay all fees and charges incurred in connection with any such recording.

**Section 9. Agents of the Issuer.** The Issuer shall have the right to appoint agents to carry out any of its duties and obligations hereunder, and shall, upon written request, certify in writing to the other party hereto any such agency appointment.

**Section 10. No Conflict with Other Documents.** The Owner warrants and covenants that it has not and will not execute any other agreement with provisions inconsistent or in conflict with the provisions hereof (except documents that are subordinate to the provisions hereof), and the Owner agrees that the requirements of this Agreement are paramount and controlling as to the rights and obligations herein set forth, which supersede any other requirements in conflict herewith.

**Section 11. Interpretation.** Any capitalized terms not defined in this Agreement shall have the same meaning as terms defined in the Funding Loan Agreement, the Borrower Loan Agreement or Section 142(d) of the Code and the regulations heretofore or hereafter promulgated thereunder.

**Section 12. Amendment.** Subject to any restrictions set forth in the Funding Loan Agreement, this Agreement may be amended by the parties hereto to reflect changes in Section 142(d) of the Code, the regulations hereafter promulgated thereunder and revenue rulings promulgated thereunder, or in the interpretation thereof.

**Section 13. Severability.** The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.

**Section 14. Notices.** Any notice, demand or other communication required or permitted hereunder shall be in writing and shall be deemed to have been given if and when personally delivered and receipted for, or, if sent by private courier service or sent by overnight mail service, shall be deemed to have been given if and when received (unless the addressee refuses to accept delivery, in which case it shall be deemed to have been given when first presented to the addressee for acceptance), or on the first day after being sent by telegram, or on the third day after being deposited in United States registered or certified mail, postage prepaid. Any such notice, demand or other communication shall be given as provided for in Section 11.1 of the Funding Loan Agreement.

**Section 15. Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Illinois, and where applicable, the laws of the United States of America.

**Section 16. Limited Liability of Owner.** Notwithstanding any other provision or obligation stated in or implied by this Agreement to the contrary, any and all undertakings and agreements of the Owner contained herein shall not (other than as expressly provided hereinafter in this paragraph) be deemed, interpreted or construed as the personal undertaking or agreement of, or as creating any personal liability upon, any past, present or future partner of the Owner, and no recourse (other than as expressly provided hereinafter in this paragraph) shall be had against the property of the Owner or any past, present or future member of the Owner, personally or individually for the performance of any undertaking,

agreement or obligation, or the payment of any money, under this Agreement or any document executed or delivered by or on behalf of the Owner pursuant hereto or in connection herewith, or for any claim based thereon. It is expressly understood and agreed that the Issuer and the registered owners of the Governmental Note, and their respective successors and assigns, shall have the right to sue for specific performance of this Agreement and to otherwise seek equitable relief for the enforcement of the obligations and undertakings of the Owner hereunder, including, without limitation, obtaining an injunction against any violation of this Agreement or the appointment of a receiver to take over and operate all or any portion of the Project in accordance with the terms of this Agreement. This Section shall survive termination of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed and sealed by their respective, duly authorized representatives, as of the day and year first above written.

**CITY OF CHICAGO**

By: \_\_\_\_\_  
Jill Jaworski, Chief Financial Officer

(SEAL)

ATTEST:

\_\_\_\_\_  
Andrea M. Valencia, City Clerk

Acknowledged and agreed to:

**BORROWER:**

**CARE Manor I L.P.,**  
an Illinois limited partnership

By: **CARE Manor Inc.,**  
an Illinois not-for-profit corporation  
its sole general partner

By: \_\_\_\_\_  
Name: David T. Whitley  
Title: President of CARE Manor Inc.,

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 David T. Whittley, personally known to me to be the president of CARE Manor Inc., an Illinois not-for-profit corporation and the general partner of CARE Manor I L.P., an Illinois 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 severally acknowledged that as such officer, he signed and delivered the said instrument, pursuant to corporate authority as the free and voluntary act of such person, and as the free and voluntary act and deed of the President of the General Partner of CARE Manor I, L.P., for the uses and purposes therein set forth.

Given under my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2024.

(SEAL)

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

STATE OF ILLINOIS )  
 ) ss:  
COUNTY OF COOK )

BEFORE ME, the undersigned authority, on this day personally appeared JILL JAWORSKI and ANDREA M. VALENCIA, the CHIEF FINANCIAL OFFICER and CITY CLERK, respectively, of the CITY OF CHICAGO, a municipal corporation and home rule unit of local government duly organized and validly existing under the Constitution and laws of the State of Illinois (the "Issuer"), known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that each executed the same for the purposes and consideration therein expressed and in the capacity therein stated, as the act and deed of said Issuer.

GIVEN UNDER MY HAND and seal of office, this the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

[SEAL]

\_\_\_\_\_  
Notary Public in and for the State of Illinois

My commission expires on:

\_\_\_\_\_

(Sub)Exhibits "A", "B" and "C" referred to in this Land Use Restriction Agreement read as follows:

*(Sub)Exhibit "A".*  
(To Land Use Restriction Agreement)

*Legal Description.*

Common Address:

4531 -- 4555 West Washington Boulevard.

(Sub)Exhibit "B".  
(To Land Use Restriction Agreement)

**ANNUAL INCOME CERTIFICATION/RECERTIFICATION  
(TO BE COMPLETED BY OWNER/MANAGEMENT)**



**3 TENANT INCOME CERTIFICATION**

Initial Certification  Recertification  Other \_\_\_\_\_

Effective Date: \_\_\_\_\_

Move-in Date: \_\_\_\_\_  
(MM/DD/YYYY)

**4 PART I. DEVELOPMENT DATA**

Property Name: \_\_\_\_\_ TC #: \_\_\_\_\_  
Property Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
BIN #: \_\_\_\_\_ County: \_\_\_\_\_ Unit Number: \_\_\_\_\_ # Bedrooms: \_\_\_\_\_

**PART II. HOUSEHOLD COMPOSITION**

HH Mbr #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	F/T Student (Y or N)	Social Security or Alien Reg. No.
1			HEAD			
2						
3						
4						
5						
6						
7						

**PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)**

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
TOTALS	\$	\$	\$	\$
Add totals from (A) through (D), above				TOTAL INCOME (E): \$

**PART IV. INCOME FROM ASSETS**

HH Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset

	<b>TOTALS:</b>	\$ _____		\$ _____
Enter Column (H) Total If over \$5000	\$ _____	Passbook Rate X Currently 2.00%	=	(J) Imputed Income
Enter the greater of the total of column I, or J: imputed income				\$ _____
<b>TOTAL INCOME FROM ASSETS (K)</b>				\$ _____
<b>(L) Total Annual Household Income from all Sources [Add (E) + (K)]</b>				\$ _____

PART V. DETERMINATION OF INCOME ELIGIBILITY			
<b>TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES:</b> From item (L) on page 1 \$ <span style="border: 1px solid black; display: inline-block; width: 100px; height: 20px; vertical-align: middle;"></span>		<b>Household Meets Income Restriction at:</b> <input type="checkbox"/> 60% <input type="checkbox"/> 50% <input type="checkbox"/> 40% <input type="checkbox"/> 30% <input type="checkbox"/> Other _____%	<b>RECERTIFICATION ONLY:</b> Current Income Limit x 140%: \$ _____ Household Income exceeds 140% at recertification: <input type="checkbox"/> Yes <input type="checkbox"/> No
Current Income Limit per Family Size:	\$ _____		
Household Income at Move-in:	\$ _____	Household Size at Move-in:	_____

PART VI. RENT			
Tenant Paid Rent	\$ _____	Rent Assistance:	\$ _____
Utility Allowance	\$ _____	Other non-optional charges:	\$ _____
<b>GROSS RENT FOR UNIT:</b> (Tenant paid rent plus Utility Allowance & other non-optional charges)	\$ <span style="border: 1px solid black; display: inline-block; width: 100px; height: 20px; vertical-align: middle;"></span>	<b>Unit Meets Rent Restriction at:</b> <input type="checkbox"/> 60% <input type="checkbox"/> 50% <input type="checkbox"/> 40% <input type="checkbox"/> 30% <input type="checkbox"/> Other _____%	
Maximum Rent Limit for this unit: (as of recertification effective date)	\$ _____		

PART VII. STUDENT STATUS		
<b>ARE ALL OCCUPANTS FULL TIME STUDENTS?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, Enter student explanation* (also attach documentation)  Enter 1-5	<b>*Student Explanation:</b> 1 TANF assistance 2 Job Training Program 5 Single parent/dependent child 6 Married/joint return 7 Former Foster Child

**PART VIII. PROGRAM TYPE**

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

a. Tax Credit <input type="checkbox"/> See Part V above.	b. HOME <input type="checkbox"/> <i>Income Status</i> <input type="checkbox"/> ≤ 50% AMGI <input type="checkbox"/> ≤ 60% AMGI <input type="checkbox"/> ≤ 80% AMGI <input type="checkbox"/> OI**	c. Tax Exempt <input type="checkbox"/> <i>Income Status</i> <input type="checkbox"/> ≤ 50% AMGI <input type="checkbox"/> ≤ 60% AMGI <input type="checkbox"/> ≤ 80% AMGI <input type="checkbox"/> OI**	d. AHDP <input type="checkbox"/> <i>Income Status</i> <input type="checkbox"/> ≤ 50% AMGI <input type="checkbox"/> ≤ 80% AMGI <input type="checkbox"/> OI**	e. Other _____ <input type="checkbox"/> <i>(Name of Program)</i> <i>Income Status</i> <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> OI**
---	--	--	---	--

\*\* Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

**PART IX. HOUSEHOLD DEMOGRAPHIC**

HH Mbr #	Race Code	Ethnicity Code	Disabled? (Y/N)	Race Code	Ethnicity Code
1				1 White	1 Hispanic or Latino
2				2 Black/African American	2 Not Hispanic or Latino
3				3 American Indian/Alaska Native	
4				4 Asian	
5				5 Native Hawaiian/other Pacific Island	
6				6 Other	
7					

**9 HOUSEHOLD CERTIFICATION & SIGNATURES**

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student. I/we agree to provide upon request source documents evidencing the income and other information disclosed above. I/we consent and authorize the disclosure of such information and any such source documents to the City, County or IHDA and HUD and any agent acting on their behalf. I/we understand that the submission of this information is one of the requirements for tenancy and does not constitute an approval of my application, or my acceptance as a tenant.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

Signature	(Date)	Signature	(Date)
Signature	(Date)	Signature	(Date)

**SIGNATURE OF OWNER/REPRESENTATIVE**

Based on the representations herein and upon the proofs and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, the Land Use Restriction Agreement (if applicable), and Section 1602 Program requirements (if applicable) to live in a unit in this Project.

SIGNATURE OF OWNER/REPRESENTATIVE	DATE
-----------------------------------	------

## INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

*This form is to be completed by the owner or an authorized representative.*

### Part I - Development Data

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If Other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

Move-in Date	Enter the date the tenant has or will take occupancy of the unit.
Effective Date	Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification.
Property Name	Enter the name of the development.
County	Enter the county (or equivalent) in which the building is located.
BIN #	Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609).
TC #	Enter the Tax Credit Identification Number for the development.
Property Address	Enter the address of the building.
Unit Number	Enter the unit number.
# Bedrooms	Enter the number of bedrooms in the unit.

### Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following coded definitions:

H	-	Head of household	S	-	Spouse
A	-	Adult co-tenant	O	-	Other family member
C	-	Child	F	-	Foster child(ren)/adult(s)
L	-	Live-in caretaker	N	-	None of the above

Enter the date of birth, student status, and social security number or alien registration number for each occupant.

*If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.*

### Part III - Annual Income

**See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.**

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Indicate the anticipated income from all sources received by the family head and

spouse (even if temporarily absent) and by each additional member of the family age 18 or older. Complete a separate line for each income-earning member. List the respective household member number from Part II.

Column (A)	Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.
Column (B)	Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.
Column (C)	Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).
Column (D)	Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.
Row (E)	Add the totals from columns (A) through (D), above. Enter this amount.

#### Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

Column (F)	List the type of asset (i.e., checking account, savings account, etc.)
Column (G)	Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).
Column (H)	Enter the cash value of the respective asset.
Column (I)	Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).
TOTALS	Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2% (or current passbook rate, if different) and enter the amount in (J), Imputed Income.

Row (K)	Enter the greater of the total in Column (I) or (J)
Row (L)	Total Annual Household Income From all Sources Add (E) and (K) and enter the total

### HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

#### Part V – Determination of Income Eligibility

Total Annual Household Income from all Sources	Enter the number from item (L).
Current Income Limit per Family Size	Enter the Current Move-in Income Limit for the household size.
Household income at move-in Household size at move-in	For recertifications, only. Enter the household income from the move-in certification. On the adjacent line, enter the number of household members from the move-in certification.
Household Meets Income Restriction	Check the appropriate box for the income restriction that the household meets according to what is required by the set-aside(s) for the project.
Current Income Limit x 140%	For recertifications only. Multiply the Current Maximum Move-in Income Limit by 140% and enter the total. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the current income limit, then the available unit rule must be followed.

#### Part VI - Rent

Tenant Paid Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Rent Assistance	Enter the amount of rent assistance, if any.
Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other non-optional charges	Enter the amount of <u>non-optional</u> charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges.
Maximum Rent Limit for this unit	Enter the maximum allowable gross rent for the unit.
Unit Meets Rent Restriction at	Check the appropriate rent restriction that the unit meets according to what is required by the set-aside(s) for the project.

#### Part VII - Student Status

If all household members are full time\* students, check "yes." If at least one household member is not a full time student, check "no."

If "yes" is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

\*Full time is determined by the school the student attends.

**Part VIII – Program Type**

Mark the program(s) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

**Tax Credit**      See Part V above.

**HOME**            If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicating the household's designation.

**Tax Exempt**    If the property participates in the Tax Exempt Bond Program, mark the appropriate box indicating the household's designation.

**AHDP**            If the property participates in the Affordable Housing Disposition Program (AHDP), and this household's unit will count towards the set-aside requirements, mark the appropriate box indicating the household's designation.

**Other**            If the property participates in any other affordable housing program, complete the information as appropriate.

**Part IX – Household Demographic**

Please ask applicant/resident(s) to provide their demographic information and disability status. If the applicant/resident(s) refuses, it is management's responsibility to complete the information based on observation or derived from other sources.

**SIGNATURE OF OWNER/REPRESENTATIVE**

It is the responsibility of the owner or the owner's representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

*These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.*

(Sub)Exhibit "C".  
(To Land Use Restriction Agreement)

*Certificate Of Continuing Program Compliance.*

The undersigned, on behalf of **CARE MANOR 1, L.P.**, an Illinois limited liability company (together with its successors and assigns, the "Owner"), hereby certifies as follows:

1. The undersigned has read and is thoroughly familiar with the provisions of the Land Use Restriction Agreement, dated as of \_\_\_\_\_, 2023 (the "Land Use Restriction Agreement"), between the City of Chicago and the Owner. All capitalized terms used herein shall have the meanings given in the Land Use Restriction Agreement.

2. Based on Certificates of Tenant Eligibility on file with the Owner, as of the date of this Certificate the following number of completed units in the Project (i) are occupied by Qualifying Tenants (as such term is defined in the Land Use Restriction Agreement), or (ii) were previously occupied by Lower-Income Tenants and have been vacant and not reoccupied except for a temporary period of no more than 31 days:

Occupied by Qualifying Tenants:\*\*\*\* \_\_\_\_\_ No. of Units

Previously occupied by Qualifying Tenants  
(vacant and not reoccupied except for a  
temporary period of no more than 31 days): \_\_\_\_\_ No of Units

3. The total number of completed units in the Project is \_\_\_\_\_

4. The total number in 2 is at least 40% of the total number in 3 above.

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\*\*\*\* A unit all of the occupants of which are full-time students does not qualify as a unit occupied by Qualifying Tenants, unless one or more of the occupants was entitled to file a joint tax return.

5. No Event of Default (as defined in the Land Use Restriction Agreement) has occurred and is subsisting under the Land Use Restriction Agreement, except as set forth in Schedule A attached hereto.

**BORROWER:**

**CARE Manor I L.P.,**  
an Illinois limited partnership

**By: CARE Manor Inc.,**  
an Illinois not-for-profit corporation  
its sole general partner

By: \_\_\_\_\_  
Name: David T. Whitley  
Title: President of CARE Manor Inc.,

*Exhibit "E".*  
(To Ordinance)

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

### CARE MANOR I L.P. REDEVELOPMENT AGREEMENT

This CARE MANOR I L.P. Redevelopment Agreement (this "Agreement" or "RDA") is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("DPD"), CARE Manor I L.P., an Illinois limited partnership (the "Owner"), and United for Better Living, Inc. NFP, an Illinois not-for-profit corporation (the "Sponsor") (the Owner and the Sponsor collectively, the "Developer" or "Developer Parties").

### RECITALS

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

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

C. City Council Authority: To induce redevelopment pursuant to the Act, the City Council of the City (the "City Council") adopted the following ordinances on September 29, 1999 published in the Journal of the Proceedings of the City Council of the City of Chicago (the "Journal") for such date at pages 11506 to 11662: (1) "Approval of Tax Increment Redevelopment Plan for the Madison/Austin Redevelopment Project Area" (the "Plan Adoption Ordinance"); (2) "Designation of Madison/Austin Corridor Redevelopment Project Area as Tax Increment Financing District"; (3) "Adoption of Tax Increment Allocation Financing for Madison/Austin Redevelopment Project Area" (the "TIF Adoption Ordinance") (items(1)-(3) collectively referred to herein as the "TIF Ordinances"); as amended by (4) "Approval of Amendment Number 1 to Madison/Austin

Corridor Redevelopment Project Area Tax Increment Financing District, published at pages 34555 to 34569 in the Journal dated September 8, 2010 ("Amendment No. 1"); and (5) "Second Amendment to Madison/Austin Corridor Tax Increment Financing (TIF) Redevelopment Project and Plan Regarding Extension of Completion Dates and Retirement of Tax Increment Financing Debt Obligations" published at pages 62459 to 62462 in the Journal dated April 19, 2023 ("Amendment No. 2", and together with the Plan Adoption Ordinance and Amendment No.1, the "Redevelopment Plan"). The redevelopment project area referred to above (the "Redevelopment Area") is legally described in Exhibit A hereto.

D. Sale of City Lots. The City owns two parcels of vacant real property located at 4531-33 West Washington Boulevard (the "Disposition Parcels" legally described in Exhibit B-1 hereto) that the City desires to be redeveloped for affordable housing, and which Owner intends to purchase from the City for the same purpose. The sale of the Disposition Parcels to the Developer was authorized pursuant to Resolution 23-CDC-41 adopted on November 14, 2023.

E. The Project: At closing, the Owner intends to (1) purchase from the Sponsor (the "Acquisition") five parcels of real property generally located within the Redevelopment Area at 4549 West Washington Boulevard, Chicago, Illinois and legally described on Exhibit B-2 hereto (the "UBL Property") and (2) purchase the Disposition Parcels from the City (the UBL Property and the Disposition Parcels collectively, the "Project Property"), and, within the time frames set forth in Section 3.01 hereof, shall commence and complete new construction of a 3-story, walk-up, multifamily, residential rental development comprising approximately forty-four (44) units all affordable to low- and moderate-income households earning up to 60% area median income, up to twenty-one (21) parking spaces for residents, and related amenities including common areas and on-site laundry facilities (the "Facility"). 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.

F. Redevelopment Plan: The Project will be carried out in accordance with this Agreement and the City of Chicago Madison/Austin Corridor Tax Increment Financing Redevelopment Project and Plan (the "Redevelopment Plan") included in the Plan Adoption Ordinance and published at pages 11510 - 11621 of the Journal, as amended by the Amendment No. 1, Amendment No. 2, and as may be further amended from time to time.

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

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

#### SECTION 1. RECITALS, HEADINGS AND EXHIBITS

The foregoing recitals are hereby incorporated into this Agreement by reference. The paragraph and section headings contained in this Agreement, including without limitation those set forth in the following table of contents, are for convenience only and are not intended to limit, vary, define or expand the content thereof. Developer agrees to comply with the requirements set forth

in the following exhibits which are attached to and made a part of this Agreement. All provisions listed in the Exhibits have the same force and effect as if they had been listed in the body of this Agreement.

Table of Contents	List of Exhibits
1. Recitals, Headings and Exhibits	A *Redevelopment Area
2. Definitions	B-1 *Disposition Parcels
2A. Sale and Purchase of Disposition Parcels	B-2 *UBL Property
3. The Project	C *TIF-Funded Improvements
4. Financing	D Intentionally omitted
5. Conditions Precedent	E Construction Contract
6. Agreements with Contractors	F Escrow Agreement
7. Completion of Construction or Rehabilitation	G *Permitted Liens
8. Covenants/Representations/Warranties of Developer	H-1 *Project Budget
9. Covenants/Representations/Warranties of the City	H-2 *MBE/WBE Budget
10. Developer's Employment Obligations	I Approved Prior Expenditures
11. Environmental Matters	J Opinion of Developer's Counsel
12. Insurance	K Intentionally Omitted
13. Indemnification	L Requisition Form
14. Maintaining Records/Right to Inspect	M Intentionally Omitted
15. Defaults and Remedies	N Form of Subordination Agreement
16. Mortgaging of the Project	O Form of Payment Bond
17. Notice	
18. Miscellaneous	
(An asterisk (*) indicates which exhibits are to be recorded.)	

**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:

**"2FM"** shall mean the Department of Fleet and Facility Management.

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

**"Acquisition"** shall have the meaning set forth in the Recitals hereof.

**"Actual Residents of the City"** has the meaning defined for such phrase in Section 10.02(c).

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

**"Agreement"** shall have the meaning defined in the Agreement preamble.

**"AMI"** shall mean Chicago-area median income, adjusted for family (as defined in 24 C.F.R. Part 5.403) size, as determined from time to time by HUD.

**"Annual Compliance Report"** shall mean a signed report from Developer to the City (a) itemizing each of Developer's obligations under the RDA during the preceding calendar year, (b) certifying Developer's compliance or noncompliance with such obligations, (c) attaching evidence (whether or not previously submitted to the City) of such compliance or noncompliance and (d) certifying that Developer is not in default with respect to any provision of the RDA, the agreements evidencing the Lender Financing, if any, or any related agreements; provided, that the obligations to be covered by the Annual Compliance Report shall include the following: (1) compliance with the Jobs Covenant (Section 8.06); (2) delivery of Financial Statements and unaudited financial statements (Section 8.13); (3) delivery of updated insurance certificates, if applicable (Section 8.14); (4) delivery of evidence of payment of Non-Governmental Charges, if applicable (Section 8.15); (5) compliance with the Affordable Housing Covenant, if applicable (Section 8.24); (6) delivery of evidence of compliance with Sustainable Development Policy (Section 8.26); (7) compliance with the Increment and Rate of Return Reporting (Section 8.27); and (8) compliance with all other executory provisions of this Agreement.

**"ATS Manual"** means the version of the Architectural and Technical Standards Manual (ATS Manual) issued by DOH in effect on the Closing Date.

**"Available Incremental Taxes"** shall mean an amount equal to the Incremental Taxes deposited in the TIF Fund attributable to the taxes levied on the Redevelopment Area as of the date any payment is made under this Agreement to any of the Developer Parties and not pledged to the following prior obligations in the Redevelopment Area:

Prior Obligation	Amount
	\$
	\$
	\$
	\$
	\$
	\$

**"Available Project Funds"** shall have the meaning set forth for such term in Section 4.07 hereof.

**"Business Day(s)"** means any day other than Saturday, Sunday or a legal holiday in the City.

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

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

**"City Contract"** shall have the meaning set forth in Section 8.01(l) hereof.

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

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

**"City Regulatory Agreements"** shall mean (1) that certain HOME Regulatory Agreement entered into on the date hereof by Owner and the City; (2) that certain Low Income Housing Tax Credit Regulatory Agreement entered into on the date hereof by Owner and the City; (3) that certain Housing Loan Regulatory (City Loan Funds) Agreement entered into on the date hereof by Owner and the City; and (5) that certain Land Use Restriction Agreement entered into on the date hereof by Owner and the City.

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

**"Contaminant"** means any of those materials set forth in 415 ILCS 5/3.165, as amended from time to time, that are subject to regulation under any Environmental Law.

**"Contract"** shall have the meaning set forth in Section 10.03 hereof.

**"Contractor"** shall have the meaning set forth in Section 10.03 hereof.

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

**"Corporation Counsel"** shall mean the City's Department of Law.

**"DOH"** shall mean the City's Department of Housing and any successor agencies.

**"DPD"** shall have the meaning defined in the Agreement preamble and any successor agencies.

**"EDS"** shall mean the City's Economic Disclosure Statement and Affidavit, on the City's then-current form, whether submitted in paper or via the City's online submission process.

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

**"Employment Plan"** shall have the meaning set forth in Section 5.12 hereof.

**"Environmental Documents"** means all reports, surveys, field data, correspondence and analytical results prepared by or for the Developer (or otherwise obtained by the Developer) regarding the condition of the Disposition Parcels or any portion thereof, including, without limitation, the SRP Documents.

**"Environmental Laws"** shall mean any federal, state, or local law, statute, ordinance, code, rule, permit, plan, regulation, license, authorization, order, or injunction which pertains to health, safety, any Hazardous Substance or Other Regulated Material, or the environment (including, but not limited to, ground, air, water or noise pollution or contamination, and underground or above-ground tanks) and shall include, without limitation, the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Toxic Substances Control Act, 15 U.S.C. §

2601 et seq.; the Hazardous Material Transportation Act, 49 U.S.C. § 1801 et seq.; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq. ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"); the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq.; the Gasoline Storage Act, 430 ILCS 15/0.01 et seq.; the Sewage and Waste Control Ordinance of the Metropolitan Water Reclamation District of Greater Chicago ("MWRD"); the Municipal Code; and any other local, state, or federal environmental statutes, and all rules, regulations, orders, and decrees now or hereafter promulgated under any of the foregoing, as any of the foregoing now exist or may be changed or amended or come into effect in the future.

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

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

"Escrow Agreement" shall mean the Escrow Agreement establishing a construction escrow, to be entered into as of the date hereof by the City, the Title Company (or an affiliate of the Title Company), Developer and Developer's lender(s).

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

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

"Fair Market Value" means the fair market value of the Disposition Parcels, as determined by that certain Appraisal Report, prepared by Kelly Appraisal Consultants, Inc. and dated October 9, 2009.

"Financial Interest" shall have the meaning set forth for such term in Section 2-156-010 of the Municipal Code.

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

"Final Comprehensive Residential NFR Letter" shall mean a final comprehensive residential "No Further Remediation" letter issued by the IEPA approving the use of the Project Property for the construction, development and operation of the Project in accordance with the site plan approved by the City and the terms and conditions of the SRP Documents, as amended or supplemented from time to time. The Final Comprehensive Residential NFR Letter shall state that the Project Property meets remediation objectives for residential properties and the construction worker exposure route as set forth in 35 Ill. Adm. Code Part 742, but may be reasonably conditioned upon use and maintenance of engineered barriers and other institutional or engineering controls acceptable to the IEPA.

**"Full-Time Equivalent Employee" or "FTE"** shall mean an employee of Developer or an Affiliate (or, with respect to job shares or similar work arrangements, two such employees counted collectively as a single FTE) who is employed in a permanent position at least 35 hours per week at the Project during the applicable month, excluding (a) persons engaged as or employed by independent contractors, third party service providers or consultants and (b) persons employed or engaged by Developer or by third parties in positions ancillary to Developer's operations at the Project including, without limitation, food service workers, security guards, cleaning personnel, or similar positions.

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

**"Hazardous Substance(s)"** has the meaning set forth in 415 ILCS 5/3.215, as amended from time to time.

**"HUD"** shall mean the United States Department of Housing and Urban Development.

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

**"IEPA"** shall mean the Illinois Environmental Protection Agency.

**"In Balance"** shall have the meaning set forth in Section 4.07 hereof.

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

**"Indemnitee" and "Indemnitees"** shall have the meanings set forth in Section 13.01 hereof.

**"Laws"** means all applicable federal, state, county, municipal or other laws (including common law), statutes, codes, ordinances, rules, regulations, executive orders, permits, licenses, authorizations 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, injunctions, consent decrees or judgments.

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

**"Losses"** shall mean any and all debts, liens (including, without limitation, lien removal and bonding costs), claims, causes of action, demands, complaints, legal or administrative proceedings, losses, damages, obligations, liabilities, 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, reasonable attorneys' fees and expenses, consultants' fees and expenses and court costs).

**"MBE(s)"** shall mean a business identified in the Directory of Certified Minority Business Enterprises published by the City's Department of Procurement Services, or otherwise certified

by the City's Department of Procurement Services as a minority-owned business enterprise, related to the Procurement Program or the Construction Program, as applicable.

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

"MBE/WBE Program" shall have the meaning set forth in Section 10.03 hereof.

"Municipal Code" shall mean the Municipal Code of the City of Chicago, as amended from time to time.

"New Mortgage" shall have the meaning set forth in Article 16 hereof.

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

"Other Regulated Material" shall mean any Waste, Contaminant, material meeting 35 IAC Part 742.305, or any other material, not otherwise specifically listed or designated as a Hazardous Substance, that (a) is or contains: petroleum, including crude oil or any fraction thereof, motor fuel, jet fuel, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel or mixtures of natural gas and such synthetic gas, asbestos, radon, any polychlorinated biphenyl, urea, formaldehyde foam insulation, explosive or radioactive material, materials known to contain per- and polyfluoroalkyl substances, i.e. PFAS, or (b) is a hazard to the environment or to the health or safety of persons.

"Permanent Lender" shall mean The Community Development Trust, LP, a Delaware limited partnership, and their successors and assigns.

"Permanent Loan" shall mean the loan of approximately \$2,415,249 from Permanent Lender to Owner.

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

"Permitted Transfer" shall have the meaning set forth in Section 4.09 hereof.

"Phase I ESA" shall mean a Phase I Environmental Site Assessment of the Project Property in accordance with ASTM E-1527-21, as most recently updated at the time of assessment.

"Phase II ESA" shall mean a Phase II Environmental Site Assessment of the Project Property in accordance with ASTM E-1903-19, as most recently updated at the time of assessment.

"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 H-1, showing the total cost of the Project by line item, furnished by Developer to DOH, in accordance with Section 3.03 hereof.

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

"Purchase Price" shall have the meaning set forth in Section 2A(a).

"RACR" shall mean the Remedial Action Completion Report required by the IEPA in order to receive a Final Comprehensive Residential NFR Letter under the Site Remediation Program.

"RAP" shall mean the Remedial Action Plan document required by the IEPA in order to receive a final No Further Remediation Letter.

"RAP Approval Letter" shall mean written approval from the IEPA of a RAP in order to obtain a Final Comprehensive Residential NFR Letter.

"REC(s)" shall have the meaning set forth in Section 2A(g).

"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.

"Released Claims" shall have the meaning set forth in Section 2A(i).

"Remediation Work" shall mean all investigation, sampling, monitoring, testing, removal, response, disposal, storage, remediation, treatment and other activities necessary to obtain a Final NFR Letter for the Project Property, or any portion thereof, in accordance with the terms and conditions of the RAP Approval Letter for the Project Property, or the applicable portion thereof, issued by IEPA, the SRP Documents, all requirements of the IEPA and all applicable Laws, including, without limitation, all applicable Environmental Laws.

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

"Senior Construction Lender" shall mean CIBC Bank USA, an Illinois state-chartered bank.

"Senior Construction Loan" shall mean the approximately \$15,000,000 construction loan from Senior Construction Lender to Owner.

"Senior Lender" shall mean (i) during the construction phase, Senior Construction Lender and (ii) during the permanent phase, Permanent Lender.

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

**"SRP"** shall mean the IEPA's Site Remediation Program as set forth in Title XVII of the Illinois Environmental Protection Act, 415 ILCS 5/58 et seq., and the regulations promulgated thereunder.

**"SRP Documents"** if applicable, shall mean all documents submitted to the IEPA under the SRP program, as amended or supplemented from time to time, including, without limitation, the Comprehensive Site Investigation and Remediation Objectives Report, the RAP, the RACR, and any and all related correspondence, data and other information prepared by either party pursuant to Section 11.

**"Survey"** shall mean a plat of survey in the most recently revised form of ALTA/NSPS land title survey of the Project Property, meeting the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, effective February 23, 2021, 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 Project 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 Project Property in connection with the construction of the Project and related improvements as required by the City or lender(s) providing Lender Financing).

**"Sustainable Development Policy"** shall mean the Sustainable Development Policy of the City as in effect on the Closing Date.

**"TACO"** shall mean the Tiered Approach to Corrective Action Objectives codified at 35 Ill. Adm. Code Part 742 et seq.

**"Term of the Agreement"** shall mean the period of time commencing on the Closing Date and ending on the date that is the thirty (30) year anniversary of the issuance of the Certificate.

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

**"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.

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

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

**"Title Company"** shall mean Chicago Title Company.

**"Title Policy"** shall mean a title insurance policy in the most recently revised ALTA or equivalent form, showing Developer as the insured, noting the recording of this Agreement as an encumbrance against the Project Property, and a subordination agreement in favor of the City with

respect to previously recorded liens against the Project Property related to Lender Financing, if any, issued by the Title Company.

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

**"Waste"** shall mean those materials defined in the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq. as waste and identified subcategories thereof, including but not limited to, construction or demolition debris, garbage, household waste, industrial process waste, landfill waste, landscape waste, municipal waste, pollution control waste, potentially infectious medical waste, refuse, or special waste.

**"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 2A. SALE AND PURCHASE OF DISPOSITION PARCELS

Conveyance of the Disposition Parcels. The following provisions shall govern the City's conveyance of the Disposition Parcels to the Owner:

(a) **Purchase Price.** The City hereby agrees to sell, and the Owner hereby agrees to purchase, upon and subject to the terms and conditions of this Agreement, the Disposition Parcels, for One Dollar (\$1.00) per tax parcel (the "**Purchase Price**"), which is to be paid to the City on or before the Closing Date in cash or by certified or cashier's check or wire transfer of immediately available funds. The Owner shall pay all escrow fees and other title insurance fees, premiums and closing costs. The Owner acknowledges and agrees that (i) the appraised fair market value of the Disposition Parcels is approximately \$35,000 based on an appraisal dated October 9, 2023, and (ii) the City has only agreed to sell the Disposition Parcels to the Owner for the Purchase Price because the Owner has agreed to execute this Agreement and comply with its terms and conditions. The Owner specifically acknowledges and agrees that the purpose of the sale is to facilitate the development of the Project.

(b) **Form of Deed.** The City shall convey the Disposition Parcels to the Owner by one or more quitclaim deeds (the "**Disposition Parcels Deed**"), subject to the terms of this Agreement and, without limiting the quitclaim nature of the deed(s), the standard exceptions in an ALTA title insurance policy; all general real estate taxes and any special assessments or other taxes; all easements, encroachments, covenants and restrictions of record and not shown of record; such other title defects as may exist; and any and all exceptions caused by the acts of the Owner, its Affiliates and their agents.

(c) **Covenants Running with the Land.** The conveyance of the Disposition Parcels to the Owner shall be subject to the following covenants, which shall run with the land and be binding on the Owner and its successors and assigns to the fullest extent permitted by law and equity for the benefit and in favor of the City, and shall be enforceable by the City:

- (i) The Owner shall use the Disposition Parcels in compliance with the Redevelopment Plan for so long as the Redevelopment Plan remains in effect.

- (ii) The Owner shall obtain planned development approval for any development on the Disposition Parcels.
- (iii) The Owner shall not, without the prior written consent of DPD, which consent shall be in DPD's sole discretion: directly or indirectly sell, transfer, convey, lease or otherwise dispose of all or any portion of the Disposition Parcels or any interest therein during the Term of the Agreement to any party other than an Affiliate. The Owner acknowledges and agrees that DPD may withhold its consent above if, among other reasons, the sale or transfer price is less than Fair Market Value.
- (iv) During the Term of the Agreement, the Owner may not, without the prior written consent of DPD, which consent shall be in DPD's sole discretion, engage in any financing or other transaction, other than Lender Financing, which would create an encumbrance or lien on the Disposition Parcels.
- (v) The Owner shall obtain a Final NFR Letter for the Disposition Parcels and comply with all land use restrictions, institutional controls and other terms and conditions contained in the Final NFR Letter.
- (vi) The Owner shall not discriminate on the basis of race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, or source of income in the sale, lease, rental, use or occupancy of the Disposition Parcels or the Project Property or any part thereof.

(d) Title and Survey. The Owner shall, no later than thirty (30) days prior to the Closing Date obtain at its expense and deliver to the City a Survey of the Project Property and a commitment for an owner's policy of title insurance issued by the Title Company (the "Title Commitment") in an amount not less than the fair market value of the Project Property. The Owner shall be solely responsible for and shall pay all costs associated with updating the Title Commitment (including all search, continuation and later-date fees), and obtaining the Title Policy and any endorsements. The City shall have no obligation to cure title defects; provided, however, the City shall reasonably cooperate (without cost to the City) with Owner's requests to cure title defects that impair the Owner's ability to develop and operate the Project; provided further, however, if there are exceptions for general real estate taxes due or unpaid prior to the Closing Date with respect to the Disposition Parcels or liens for such unpaid property taxes, the City shall, as applicable, request that the County void the unpaid taxes as provided in Section 21-100 of the Property Tax Code, 35 ILCS 200/21-100, or file an application for a Certificate of Error with the Cook County Assessor, or file a tax injunction suit or petition to vacate a tax sale in the Circuit Court of Cook County. If, after taking the foregoing actions and diligently pursuing same, the Disposition Parcels remains subject to any tax liens, or if the Disposition Parcels are encumbered with any other exceptions that would adversely affect the use and insurability of the Disposition Parcels for the development of the Project, the Owner shall, as its sole remedy, have the option to either (i) proceed with the purchase subject to all defects and exceptions, or (ii) terminate its right to purchase under this Section 2A, whereupon such purchase right shall be null and void and, except as otherwise spe-

cifically provided, neither party shall have any further right, duty or obligation hereunder with respect to the Disposition Parcels. If the Owner elects not to terminate its purchase right pursuant to this Section 2A(d), the Owner agrees to accept title subject to all exceptions.

(e) Closing. The conveyance of the Disposition Parcels shall take place concurrently with the conveyance of the UBL Property on the Closing Date at the downtown offices of the Title Company or such other place as the parties may mutually agree upon in writing; provided, however, in no event shall the closing of the land sale occur unless the Owner has satisfied all conditions precedent set forth in this Section 2A, unless DPD, in its sole discretion, waives such conditions. On or before the Closing Date, the City shall deliver to the Title Company the Disposition Parcels Deed, all necessary state, county and municipal real estate transfer tax declarations, water certification or waiver thereof, and an ALTA statement. The City will not provide a gap undertaking. The Owner shall pay to record the Disposition Parcels Deed and any other documents incident to the conveyance of the Disposition Parcels to the Owner.

(f) "AS IS" SALE. THE CITY MAKES NO COVENANT, REPRESENTATION, OR WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND, AS TO THE STRUCTURAL, PHYSICAL OR ENVIRONMENTAL CONDITION OF THE DISPOSITION PARCELS OR THE SUITABILITY OF THE DISPOSITION PARCELS FOR ANY PURPOSE WHATSOEVER. THE OWNER ACKNOWLEDGES THAT IT HAS HAD OR WILL HAVE ADEQUATE OPPORTUNITY TO INSPECT AND EVALUATE THE STRUCTURAL, PHYSICAL AND ENVIRONMENTAL CONDITIONS AND RISKS OF THE DISPOSITION PARCELS AND ACCEPTS THE RISK THAT ANY INSPECTION MAY NOT DISCLOSE ALL MATERIAL MATTERS AFFECTING THE DISPOSITION PARCELS. THE OWNER AGREES TO ACCEPT THE DISPOSITION PARCELS IN THEIR "AS IS," "WHERE IS" AND "WITH ALL FAULTS" CONDITION AT CLOSING, WITH ALL FAULTS AND DEFECTS, LATENT OR OTHERWISE, AND THE CITY HAS NOT MADE AND DOES NOT MAKE ANY COVENANT, REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND, OR GIVE ANY INDEMNIFICATION OF ANY KIND TO THE OWNER, WITH RESPECT TO THE STRUCTURAL, PHYSICAL OR ENVIRONMENTAL CONDITION OF THE VALUE OF THE DISPOSITION PARCELS, THEIR COMPLIANCE WITH ANY STATUTE, ORDINANCE OR REGULATION, OR THEIR HABITABILITY, SUITABILITY, MERCHANTABILITY OR FITNESS FOR ANY PURPOSE WHATSOEVER. THE OWNER ACKNOWLEDGES THAT IT IS RELYING SOLELY UPON ITS OWN INSPECTION AND OTHER DUE DILIGENCE ACTIVITIES AND NOT UPON ANY INFORMATION (INCLUDING, WITHOUT LIMITATION, ENVIRONMENTAL STUDIES OR REPORTS OF ANY KIND) PROVIDED BY OR ON BEHALF OF THE CITY OR ITS AGENTS OR EMPLOYEES WITH RESPECT THERETO. THE OWNER AGREES THAT IT IS ITS SOLE RESPONSIBILITY AND OBLIGATION TO PERFORM AT ITS EXPENSE ANY ENVIRONMENTAL REMEDIATION WORK AND TAKE SUCH OTHER ACTION AS IS NECESSARY TO PUT THE DISPOSITION PARCELS IN A CONDITION WHICH IS SUITABLE FOR THEIR INTENDED USE.

(g) Environmental Due Diligence and Remediation. Per Section 11 of this Agreement.

(h) [intentionally omitted]

(i) Release and Indemnification. The Owner, on behalf of itself, its officers, directors, employees, successors, assigns and anyone claiming by, through or under them, and the Developer Parties, hereby releases, relinquishes and forever discharges the City, its officers, agents and employees (collectively, the "Indemnified Parties"), from and against any and all Losses which

the Owner or any of the Developer Parties ever had, now have, or hereafter may have, whether grounded in tort or contract or otherwise, in any and all courts or other forums, of whatever kind or nature, whether known or unknown, foreseen or unforeseen, now existing or occurring after the Closing Date, based upon, arising out of or in any way connected with, directly or indirectly (i) any environmental contamination, pollution or hazards associated with the Project Property or any improvements, facilities or operations located or formerly located thereon, including, without limitation, any release, emission, discharge, generation, transportation, treatment, storage or disposal of Hazardous Substances, or threatened release, emission or discharge of Hazardous Substances; (ii) the structural, physical or environmental condition of the Project Property, including, without limitation, the presence or suspected presence of Hazardous Substances or Other Regulated Materials in, on, under or about the Project Property or the migration of Hazardous Substances or Other Regulated Material from or to the Project Property; (iii) any violation of, compliance with, enforcement of or liability under any Environmental Laws, including, without limitation, any governmental or regulatory body response costs, natural resource damages or Losses arising under CERCLA; and (iv) 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 Project Property or any improvements, facilities or operations located or formerly located thereon (collectively, "Released Claims"). Furthermore, the Owner shall indemnify, defend (through an attorney reasonably acceptable to the City) and hold the Indemnified Parties harmless from and against any and all Losses which may be made or asserted by any third parties (including, without limitation, any of the Developer Parties) arising out of or in any way connected with, directly or indirectly, any of the Released Claims; provided, however, that the Owner shall have no obligation to an Indemnitee arising from the willful misconduct of that Indemnitee. The Developer Parties waive their rights of contribution and subrogation against the Indemnified Parties.

(j) Release Runs with the Land. The covenant of release in Section 2A(i) above shall run with the Project Property, and shall be binding upon all successors and assigns of the Owner with respect to the Project Property, including, without limitation, each and every person, firm, corporation, limited liability company, trust or other entity owning, leasing, occupying, using or possessing any portion of the Project Property under or through the Owner following the Closing Date. The Owner acknowledges and agrees that the foregoing covenant of release constitutes a material inducement to the City to enter into this Agreement, and that, but for such release, the City would not have agreed to convey the Disposition Parcels to the Owner. It is expressly agreed and understood by and between the Owner and the City that, should any future obligation of the Owner or any of the Developer Parties arise or be alleged to arise in connection with any environmental, soil or other condition of the Project Property, neither the Owner nor any of the Developer Parties will assert that those obligations must be satisfied in whole or in part by the City because Section 2A(i) contains a full, complete and final release of all such claims.

(k) Survival. This Section 2A shall survive the Closing Date or any termination of this Agreement (regardless of the reason for such termination).

### SECTION 3. THE PROJECT

3.01 The Project. With respect to the Project, Developer shall, pursuant to the Plans and Specifications: (i) commence construction no later than six (6) months after the Closing Date; and (ii) complete construction and conduct business operations therein no later than twenty-four (24) months after the commencement of construction.

**3.02 Scope Drawings and Plans and Specifications.** Developer has delivered the Scope Drawings and Plans and Specifications to DPD and DPD has approved same. After such initial approval, subsequent proposed changes to the Scope Drawings or Plans and Specifications shall be submitted to DPD as a Change Order pursuant to Section 3.04 hereof. The Scope Drawings and Plans and Specifications shall at all times conform to the Redevelopment Plan and all applicable federal, state and local laws, ordinances and regulations. 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.** Developer has furnished to DPD and DOH, and each has approved, a Project Budget showing total costs for the Project in an amount not less than \$31,636,984. Developer hereby certifies to the City that (a) the City Funds, together with 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. Developer shall promptly deliver to DPD and DOH 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) relating to material changes to the Project must be submitted by Developer to DOH for DOH's prior written approval. The Developer Parties shall not authorize or permit the performance of any work relating to any Change Order or the furnishing of materials in connection therewith prior to the receipt by the Developer Parties of DOH's written approval (to the extent said City prior approval is required pursuant to the terms of this Agreement). The Construction Contract, and each contract between one or more of the Developer parties and any contractor, 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 DPD/DOH Approval.** Any approval granted by DPD and/or DOH of the Scope Drawings, Plans and Specifications and the Change Orders is for the purposes of this Agreement only and does not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval, nor does any approval by DPD or DOH pursuant to this Agreement constitute approval of the quality, structural soundness or safety of the Project Property or the Project.

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

**3.07 Progress Reports and Survey Updates.** After the Closing Date, the Developer Parties shall provide DPD and/or DOH with written quarterly construction progress reports detailing

the status of the Project, including a revised completion date, if necessary (with any delay in completion date being considered a Change Order, requiring DPD and/or DOH's written approval under Section 3.04). Developer Parties must also deliver to the City written progress reports by draw, but not less than quarterly, detailing compliance with the requirements of Section 8.08 (Prevailing Wage), Section 10.02 (City Resident Construction Worker Employment Requirement) and Section 10.03 (Developer Parties' MBE/WBE Commitment). If the reports reflect a shortfall in compliance with the requirements of Sections 8.08, 10.02 and 10.03, then there must also be included a written plan from Developer Parties acceptable to DPD and/or DOH to address and cure such shortfall. At Project completion, Developer Parties shall provide three (3) copies of an updated Survey to DPD and/or DOH upon the request of DPD and/or DOH or any lender providing Lender Financing, reflecting improvements made to the Project Property.

**3.08 Inspecting Agent or Architect.** An independent agent or architect (other than Developer's architect) approved by DPD and/or DOH shall be selected to act as the inspecting agent or architect at Developer's expense for the Project. The inspecting agent or architect shall perform periodic inspections with respect to the Project, providing certifications with respect thereto to DPD and/or DOH, prior to requests for disbursement for costs related to the Project.

**3.09 Barricades.** Prior to commencing any construction requiring barricades, Developer shall install a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all applicable federal, state or City laws, ordinances and regulations. DPD retains the right to approve the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades.

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

**3.11 Utility Connections.** Developer may connect all on-site water, sanitary, storm and sewer lines constructed on the Project Property to City utility lines existing on or near the perimeter of the Project Property, provided 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, 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 Project 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 \$31,636,984, to be applied in the manner set forth in the Project Budget and funded from the following sources:

<b>SOURCES</b>	<b>AMOUNT</b>
Permanent Loan*	\$ 2,415,249
City Multi-Family Program Funds / 2024 GO/STSC Bond Proceeds	\$ 9,610,023
City Funds	\$ 9,700,000
Deferred Developer Fee	\$ 225,000
General Partner Equity	\$ 100
LIHTC Equity	\$ 9,686,612
<b>TOTAL SOURCES</b>	<b>\$ 31,636,984</b>

\*During construction, City-issued multifamily housing revenue tax-exempt proceeds up to \$15,000,000, funded by the Senior Construction Lender as the Senior Construction Loan, will bridge portions of the City Funds and the 4% Low Income Housing Tax Credit (LIHTC) equity during construction. A portion of the Senior Construction Loan will convert to the Permanent Loan following construction completion.

The payment of City Funds, including the timing of payment, is subject to the terms and conditions of this Agreement, including but not limited to Section 4.03 and Section 5.

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 and costs of TIF-Funded Improvements.

4.03 City Funds.

(a) Uses of City Funds. City Funds may only be used to pay directly or reimburse Developer for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs. Exhibit C sets forth, by line item, the TIF-Funded Improvements for the Project, and the maximum amount of costs that may be paid by or reimbursed from City Funds for each line item therein (subject to Sections 4.03(b)), contingent upon receipt by the City of documentation satisfactory in form and substance to DPD evidencing such cost and its eligibility as a Redevelopment Project Cost. The Sponsor shall be required to loan or contribute any City Funds it receives to Owner as reimbursement for the costs of TIF-Funded Improvements or to directly pay for the costs of the TIF-Funded Improvements.

(b) Sources of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Section 5 hereof, the City hereby agrees to provide up to \$10,000,000 of City funds (the "City Funds") from Available Incremental Taxes to pay for or reimburse the Developer Parties for the costs of the TIF-Funded Improvements; provided, however, that the total amount of City Funds expended for TIF-Funded Improvements shall

be an amount not to exceed 10,000,000; and provided further, that the \$10,000,000 to be derived from Available Incremental Taxes, if any, shall be available to pay costs related to TIF-Funded Improvements and allocated by the City for that purpose only so long as the amount of the Available Incremental Taxes deposited into the TIF Fund shall be sufficient to pay for such costs and the City has been reimbursed from Available Incremental Taxes for the amount previously disbursed by the City for TIF-Funded Improvements.

The Developer Parties acknowledge and agree that the City's obligation to pay for TIF-Funded Improvements up to a maximum of \$10,000,000 is contingent upon the fulfillment of the conditions set forth above. In the event that such conditions are not fulfilled, the amount of Equity to be contributed by the Developer Parties pursuant to Section 4.01 hereof shall increase proportionately.

(c) Disbursement of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03, Section 4.07, Section 4.08 and Section 5 hereof, the City shall disburse the City Funds in four (4) payments as follows:

- (i) The first installment of City Funds up to an amount of \$3,333,333 upon the completion of 33% of the construction of the Project based upon the amount of actual Project costs incurred in relation to the Project Budget as certified to the City in a Requisition Form with required supporting documentation;
- (ii) The second installment up to an amount of \$3,333,333 upon completion of 66% of the construction of the Project based upon the amount of actual Project costs incurred in relation to the Project Budget as certified to the City in a Requisition Form with required supporting documentation;
- (iii) The third and final installment up to an amount of \$3,333,334 upon (A) completion of 100% of the construction of the Project based upon the amount of actual Project costs incurred in relation to the Project Budget as certified to the City in a Requisition Form with required supporting documentation; and (B) issuance of the Certificate.

**4.04 Construction Escrow**. The City and Developer hereby agree to enter into the Escrow Agreement. All disbursements of Project funds made before the issuance of the Certificate shall be made through the funding of draw requests with respect thereto pursuant to the Escrow Agreement and this Agreement. Draw requests must include all documentation required by DOH and the Developer shall follow all procedures as outlined by DOH in the preconstruction meeting. The City must receive copies of any draw requests and related documents submitted to the Title Company for disbursements under the Escrow Agreement. The Developer shall submit a Requisition Form to DOH prior to each disbursement of City Funds per Section 4.03 above and DOH shall respond to Developer's Requisition Form within forty-five (45) days. Requisition for reimbursement of TIF-Funded Improvements shall be made not more than one time per month (or as otherwise permitted by DOH). DOH shall approve disbursements of the City Funds from the Escrow. If required, the Developer shall meet with DOH upon request to discuss the Requisition Forms previously delivered. Notwithstanding the foregoing, the disbursement of City Funds pursuant to Section 4.03(c)(iii) may be remitted directly to Senior Construction Lender for application to the repayment of the Senior Construction Loan upon receipt by the City of a letter of direction to that effect from the Developer Parties. In case of any conflict between the terms of this Agreement and the Escrow Agreement, the terms of this Agreement shall control.

4.05 Treatment of Prior Expenditures and Subsequent Disbursements.

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

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

(c) Allocation Among Line Items. Disbursements for expenditures related to TIF-Funded Improvements may be allocated to and charged against the appropriate line only, with transfers of costs and expenses from one line item to another without the prior written consent of DPD and/or DOH being prohibited.

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

4.07 Preconditions of Disbursement. Prior to each disbursement of City Funds hereunder, Developer shall submit documentation regarding the applicable expenditures to DOH, which shall be satisfactory to DOH in its sole discretion. The construction monitoring and compliance unit of DOH shall verify the percentage of construction completion. Delivery by one or more of the Developer parties to DOH of any request for disbursement of City Funds hereunder shall, in addition to the items therein expressly set forth, constitute a certification to the City, as of the date of such request for disbursement, that:

(a) the total amount of the disbursement request represents the actual cost of the Acquisition or the actual amount payable to (or paid to) the General Contractor and/or sub-contractors who have performed work on the Project, and/or their payees;

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

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

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

(e) Developer has received no notice and has no knowledge of any liens or claim of lien either filed or threatened against the Project Property except for the Permitted Liens;

(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; and

(g) the Project is In Balance. The Project shall be deemed to be in balance ("In Balance") only if the total of the available Project funds equals or exceeds the aggregate of the amount necessary to pay all unpaid Project costs incurred or to be incurred in the completion of the Project. "Available Project Funds" as used herein shall mean: (i) the undisbursed City Funds; (ii) the undisbursed Lender Financing, if any; (iii) the undisbursed Equity and (iv) any other amounts deposited by Developer pursuant to this Agreement. Developer hereby agrees that, if the Project is not In Balance, Developer shall, within 10 days after a written request by the City, deposit with the escrow agent or will make available (in a manner acceptable to the City), cash in an amount that will place the Project In Balance, which deposit shall first be exhausted before any further disbursement of the City Funds shall be made.

The City shall have the right, in its discretion, to require 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 Developer. In addition, Developer shall have satisfied all other preconditions of disbursement of City Funds for each disbursement, including but not limited to requirements set forth in the TIF Ordinances, this Agreement and/or the Escrow Agreement.

4.08 Conditional Grant. The City Funds being provided hereunder are being granted on a conditional basis, subject to the Developer's compliance with the provisions of this Agreement. The City Funds disbursed are subject to being reimbursed upon the Developer Parties' noncompliance with the provisions of this Agreement.

4.09 Transfer Restrictions. The Developer hereby covenants and agrees not to sell, transfer or otherwise dispose of the Project, or any portion thereof (including without limitations, a transfer by assignment of any beneficial interest under a land trust) at any time during the Project Term, except as expressly permitted by the City. It is hereby expressly stipulated and agreed that any sale, transfer, or other disposition of the Project in violation of this Section 4.09 shall be null, void and without effect, shall cause a reversion of title to the Developer or any successor or assignee of the Developer last permitted by the City, and shall be ineffective to relieve the Developer or such successor or assignee, as applicable, of its obligations hereunder.

Notwithstanding the foregoing, the City shall not unreasonably withhold its written consent to the replacement and/or addition of a general partner of Owner pursuant to the terms of the partnership Owner's amended and restated agreement of limited partnership (the "Partnership Agreement") and to the extent the City so consents, it shall not be considered a Prohibited Transfer hereunder; provided, however, that no consent of the City shall be required for the following

(items (1) – (3) each a "Permitted Transfer"): (1) the general partner is removed for cause pursuant to the terms of the Partnership Agreement, replaced by an affiliate of the Limited Partner (as defined in the Partnership Agreement) of Owner, and the limited partner of Owner provides the City written notice promptly after such general partner has been removed; or (2) a transfer pursuant to a foreclosure, deed in lieu of foreclosure or similar action by the Senior Lender; or (3) any pledge by the general partner of the Owner to a Lender that is providing Lender Financing of all of its rights, title and interest in and to the Owner and under the Partnership Agreement as collateral for the Owner's obligations under the loans made or to be made by the Lender to Owner.

#### 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. Developer has submitted to DPD and DOH, and DPD and DOH have approved, a Project Budget in accordance with the provisions of Section 3.03 hereof.

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

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

5.04 Financing. Developer has furnished proof reasonably acceptable to the City that 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, Developer has furnished proof as of the Closing Date that the proceeds thereof are available to be drawn upon by Developer as needed and are sufficient (along with the Equity and other sources set forth in Section 4.01) to complete the Project. Any liens against the Project Property in existence at the Closing Date have been subordinated to certain encumbrances of the City set forth herein pursuant to a Subordination Agreement, in a form acceptable to the City, executed on or prior to the Closing Date, which is to be recorded, at the expense of Developer, with the Cook County Clerk's Recordings Division.

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

5.06 Evidence of Clean Title. Developer, at its own expense, has provided the City with searches as indicated in the chart below under Developer's name showing no liens against Developer, the Project Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens:

Jurisdiction	Searches
Secretary of State	UCC, Federal tax
Cook County Clerk's Recordings Division	UCC, Fixtures, Federal tax, State tax, Memoranda of judgments
U.S. District Court	Pending suits and judgments
Clerk of Circuit Court, Cook County	Pending suits and judgments

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

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

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

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

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

5.12 Documentation; Employment Plan. The Developer has provided documentation to DPD, satisfactory in form and substance to DPD, with respect to current employment matters in connection with the construction or rehabilitation work on the Project, including the reports described in Section 8.07.

5.13 Environmental. The Developer Parties have provided City with copies of a Phase I ESA for the Project Property prior to and conducted, or updated, within 180 days prior to the conveyance of the Project Property and a Phase II ESA required by the City. The Phase I ESA identified Recognized Environmental Conditions ("RECs") and the Developer performed a Phase II ESA to ascertain the presence of any environmental impacts that may be associated with the RECs. The Phase II ESA identified contamination above residential remediation objectives as determined by Title 35 of the Illinois Administrative Code ("IAC") Part 742, and the Developer shall enroll the Project Property (or any portion thereof) in the IEPA SRP in order to obtain a comprehensive residential NFR Letter for the enrolled Project Property. The Developer acknowledges and agrees that it may not commence construction on the Project Property or commence any other activity on the Project Property that could interfere with the prompt start and completion of

the RAP until the IEPA issues the RAP Approval Letter for the Project Property. The Developer Parties have provided the City with a letter or letters from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits. If the Project uses federal funding from HUD, a National Environmental Policy Act (NEPA) review must be conducted and an Authority to Use Grant Funds (AUGF) must be received prior to choice limiting actions are conducted.

5.14 Corporate Documents; Economic Disclosure Statement. Developer has provided a copy of its articles of organization or certificate of organization 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 Developer is qualified to do business; a secretary's certificate in such form and substance as the Corporation Counsel may require; bylaws or operating agreement; and such other documentation as the City has requested.

Developer has provided to the City an EDS, dated as of the Closing Date, which is incorporated by reference, and Developer further will provide any other affidavits or certifications as may be required by federal, state or local law in the award of public contracts, all of which affidavits or certifications are incorporated by reference. Notwithstanding acceptance by the City of the EDS, failure of the EDS to include all information required under the Municipal Code renders this Agreement voidable at the option of the City. Developer and any other parties required by this Section 5.14 to complete an EDS must promptly update their EDS(s) on file with the City whenever any information or response provided in the EDS(s) is no longer complete and accurate, including changes in ownership and changes in disclosures and information pertaining to ineligibility to do business with the City under Chapter 1-23 of the Municipal Code, as such is required under Sec. 2-154-020, and failure to promptly provide the updated EDS(s) to the City will constitute an event of default under this Agreement.

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

## SECTION 6. AGREEMENTS WITH CONTRACTORS

6.01 Bid Requirement for General Contractor and Subcontractors. Prior to entering into an agreement with any contractor for construction of the Project, the Developer shall solicit bids from one or more qualified contractors eligible to do business with the City, and shall submit all bids received to DOH for its inspection and written approval. For the TIF-Funded Improvements, the Developer shall select the contractor submitting the lowest responsible and responsive bid who can complete the Project in a timely manner. If the Developer selects any contractor submitting other than the lowest responsible and responsive bid for the TIF-Funded Improvements, the difference between the lowest responsible and responsive bid and the bid selected may not be paid out of City Funds. The Developer shall submit copies of the Construction Contract to DOH in accordance with Section 6.02 below. Draft copies of all subcontracts shall be provided to DOH prior to the Closing Date. Additionally, photocopies of all subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DOH within five (5) Business Days of the execution thereof. The Developer shall ensure that

no contractors shall begin work on the Project until the Plans and Specifications have been approved by DOH and all requisite permits have been obtained.

6.02 Construction Contract. The Construction Contract shall be a contract in accordance with Section 4.1 of the ATS Manual. Prior to the execution thereof, Developer shall deliver to DPD and DOH a copy of the proposed Construction Contract with the General Contractor selected to handle the Project in accordance with Section 6.01 above for DPD and DOH's prior written approval, which shall be granted or denied within ten (10) business days after delivery thereof. Developer shall ensure that its General Contractor adheres to the policies and procedures outlined in the ATS Manual. Within ten (10) business days after execution of such contract by Developer, the General Contractor and any other parties thereto, Developer shall deliver to DPD, DOH 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 commencement of construction of any portion of the Project, Developer shall require that the General Contractor be bonded for its performance and payment by sureties having an AA rating or better using American Institute of Architect's Form No. A311 or its equivalent. Prior to the commencement of any portion of the Project which includes work on the public way, Developer shall require that the General Contractor and any applicable subcontractor(s) be bonded (as to such work in the public way) for their respective payment and performance by sureties having an AA rating or better using a bond in the form attached as Exhibit O hereto. The City shall be named as obligee or co-obligee on any such bonds.

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

6.05 Other Provisions. In addition to the requirements of this Section 6, the Construction Contract and each contract with any subcontractor shall contain provisions required pursuant to Section 3.04 (Change Orders), Section 8.09 (Prevailing Wage), Section 10.01(e) (Employment Opportunity), Section 10.02 (City Resident Employment Requirement), Section 10.03 (MBE/WBE Requirements, as applicable), Section 12 (Insurance) and Section 14.01 (Books and Records) hereof. Photocopies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD within five (5) business days of the execution thereof.

## SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION

7.01 Certificate of Completion of Construction or Rehabilitation. Upon completion of the construction of the Project in accordance with the terms of this Agreement and upon Developer's written request, DPD shall issue to Developer a Certificate in recordable form certifying that Developer has fulfilled its obligation to complete the Project in accordance with the terms of this Agreement. DPD shall respond to 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 Developer in order to obtain the Certificate. Developer may resubmit a written request for a Certificate upon completion of such measures. DPD shall not issue a Certificate until all of the following conditions are met by the Developer Parties:

- i. Receipt of a Certificate of Occupancy or other evidence acceptable to DPD that the Developer Parties have complied with building permit requirements for the Project;
- ii. Evidence that the units are being marketed for lease to tenants pursuant to the requirements set forth in the affordability provisions of that certain Low Income Housing Tax Credit Regulatory Agreement entered into on the date hereof by Owner and the City;
- iii. The Project, including all residential units, commercial space, environmental features, and all related improvements, has been completed and constructed substantially according to the Plans and Specifications as evidenced by an affidavit provided by the Owner as evidenced by AIA Form G702, the architect of record has issued a certificate of substantial completion, and the Developer and General Contractor have successfully completed DOH's project closeout procedures as outlined in the preconstruction meeting;
- iv. Evidence acceptable to DPD that the total Project cost equals or exceeds \$31,636,984;
- iii. Evidence that the Developer Parties have incurred TIF-eligible costs, in an equal amount to, or greater than, \$10,000,000 for the Project;
- iv. The City's monitoring and compliance unit has verified that, at the time the Certificate is issued, the Developer Parties are in full compliance with City requirements set forth in Section 10 and Section 8.06 (M/WBE, City Residency and Prevailing Wage) with respect to construction of the Project, and that 100% of the Developer Parties' MBE/WBE Commitment in Section 10.03 have been fulfilled;
- v. There exists neither an Event of Default (after any applicable cure period) which is continuing nor a condition nor event which, with the giving of notice or passage of time or both, would constitute an Event of Default as evidenced by an affidavit provided by the Developer and accepted by the City; and
- vi. Evidence in the form of an affidavit provided by the architect of record certifying that the Project has complied with the provisions and requirements of the Sustainable Development Policy.

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 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, 8.06, 8.19, and 8.24 as covenants that run with the land are the only covenants in this Agreement intended to be binding upon any transferee of the Project 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 Developer or a permitted assignee of Developer who, pursuant to Section 18.14 of this Agreement, has contracted to take an assignment of Developer's rights under this Agreement and assume Developer's liabilities hereunder.

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

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

(b) the right (but not the obligation) to complete those TIF-Funded Improvements that are public improvements and to pay for the costs of TIF-Funded Improvements (including interest costs) out of City Funds or other City monies. In the event that the aggregate cost of completing the TIF-Funded Improvements exceeds the amount of City Funds available pursuant to Section 4.01, 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 Developer.

7.04 Notice of Expiration of Term of Agreement. Upon the expiration of the Term of the Agreement, DPD shall provide Developer, at 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 DEVELOPER

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

(a) Each Developer party is a not-for-profit corporation or limited partnership duly incorporated or organized, as applicable, validly existing in Illinois, qualified to do business in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

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

(c) the execution, delivery and performance by each Developer party of this Agreement has been duly authorized by all necessary action, and does not and will not violate its articles of organization or incorporation, by-laws, partnership agreement, and/or operating 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 each Developer Party is now a party or by which each Developer Party is now or may become bound;

(d) unless otherwise permitted or not prohibited pursuant to or under the terms of this Agreement, Owner shall acquire and shall maintain good, indefeasible and merchantable fee simple title to the Project Property (and all improvements thereon) free and clear of all liens (except for the Permitted Liens, Lender Financing as disclosed in the Project Budget and non-governmental charges that Developer is contesting in good faith pursuant to Section 8.15 hereof).

(e) 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 Developer which would impair its ability to perform under this Agreement;

(g) 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) 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 Developer is a party or by which 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 Developer, and there has been no material adverse change in the assets, liabilities, results of operations or financial condition of Developer since the date of Developer's most recent Financial Statements;

(j) prior to the issuance of a Certificate, Developer shall not do any of the following without the prior written consent of DPD: (1) be a party to any merger, liquidation or consolidation; (2) sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or any portion of the Project Property (including but not limited to any fixtures or equipment now or hereafter attached thereto) except in the ordinary course of business; (3) enter into any transaction outside the ordinary course of Developer's business; (4) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity (other than in connection with the Lender Financing for the Project); or (5) enter into any transaction that would cause a material and detrimental change to Developer's financial condition;

(k) Developer has not incurred, and, prior to the issuance of a Certificate, shall not, without the prior written consent of the Commissioner of DPD, allow the existence of any liens against the Project Property (or improvements thereon) other than the Permitted Liens; or incur any indebtedness, secured or to be secured by the Project 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 Developer in violation of Chapter 2-156-120 of the Municipal Code;

(m) neither Developer nor any affiliate of 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;

(n) Developer understands that (i) the City Funds are limited obligations of the City, payable solely from moneys on deposit in the TIF Fund; (ii) the City Funds do not constitute indebtedness of the City within the meaning of any constitutional or statutory provision or limitation; (iii) Developer will have no right to compel the exercise of any taxing power of the City for payment of the City Funds; and (iv) the City Funds do not and will not represent or constitute a general obligation or a pledge of the faith and credit of the City, the State of Illinois or any political subdivision thereof;

(o) Developer has sufficient knowledge and experience in financial and business matters, including municipal projects and revenues of the kind represented by the City Funds, and has been supplied with access to information to be able to evaluate the risks associated with the receipt of City Funds;

(p) Developer understands that there is no assurance as to the amount or timing of receipt of City Funds;

(q) Developer understands it may not sell, assign, pledge or otherwise transfer its interest in this Agreement or City Funds in whole or in part except in accordance with the terms of Section 18.14 of this Agreement, and, to the fullest extent permitted by law, agrees to indemnify the City for any losses, claims, damages or expenses relating to or based upon any sale, assignment, pledge or transfer of City Funds in violation of this Agreement; and

(r) Developer acknowledges that with respect to City Funds, the City has no obligation to provide any continuing disclosure to the Electronic Municipal Market Access System maintained by the Municipal Securities Rulemaking Board, to any holder of a note relating to City Funds or any other person under Rule 15c2-12 of the Commission promulgated under the Securities Exchange Act of 1934 or otherwise, and shall have no liability with respect thereto.

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

8.03 Redevelopment Plan. Developer represents that the Project is and shall be in compliance with all of the terms of the Redevelopment Plan, which is hereby incorporated by reference into this Agreement.

8.04 Use of City Funds. City Funds disbursed to any of the Developer parties shall be used by the Developer parties solely to pay for (or to reimburse the Developer parties for their payment for) the TIF-Funded Improvements as provided in this Agreement. If the City pays any of the City Funds to the Sponsor, it shall be required to loan or contribute the City Funds to the Developer, to reimburse the Developer for the costs of TIF-Funded Improvements or directly pay for the costs of the TIF-Funded Improvements.

8.05 Other Bonds. Developer shall, at the request of the City, agree to any reasonable amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole discretion) any bonds in connection with the Redevelopment Area, the proceeds of which may be used to reimburse the City for expenditures made in connection with, or provide a source of funds for the payment for, the TIF-Funded Improvements (the "Bonds"); provided, however, that any such amendments shall not have a material adverse effect on Developer or the Project. Developer shall, at 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 Job Creation and Retention. The Developer will aspire to create up to 1.5 Full-Time Equivalent positions as well as 150 temporary Full-Time Equivalent construction-related positions and will provide information regarding employment on an annual basis pursuant to Section 3.3.

8.07 Employment Opportunity; Progress Reports. 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. Developer shall deliver to the City written progress reports detailing compliance with the requirements of Sections 8.09, 10.02 and 10.03 of this Agreement. Such reports shall be delivered to the City when the Project is 25%, 50%, 70% and 100% completed (based on the amount of expenditures incurred in relation to the Project Budget). If any such reports indicate a shortfall in compliance, Developer shall also deliver a plan to DPD which shall outline, to DPD's satisfaction, the manner in which Developer shall correct any shortfall.

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

8.09 Prevailing Wage. If Davis Bacon wage rates are required, then Developer shall follow such requirements with respect to the Project. If Davis Bacon Wage rates are not required, then 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, Developer shall

provide the City with copies of all such contracts entered into by Developer or the General Contractor to evidence compliance with this Section 8.09.

8.10 Arms-Length Transactions. Unless DPD and/or DOH has given its prior written consent with respect thereto, no Affiliate of 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. Developer shall provide information with respect to any entity to receive City Funds directly or indirectly (whether through payment to the Affiliate by Developer and reimbursement to Developer for such costs using City Funds, or otherwise), upon DPD's and/or DOH's request, prior to any such disbursement.

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

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

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

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

8.15 Non-Governmental Charges.

(a) Payment of Non-Governmental Charges. Except for the Permitted Liens, Owner agrees to pay or cause to be paid when due any Non-Governmental Charge assessed or imposed upon the Project, the Project 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 Project Property or Project; provided however, that if such Non-Governmental Charge may be paid in installments, Owner 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. Owner shall furnish to DPD, within thirty (30) days of DPD's request, official receipts from the appropriate entity, or other proof satisfactory to DPD, evidencing payment of the Non-Governmental Charge in question.

(b) Right to Contest. Owner 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 Project Property (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend Developer's covenants to pay any such Non-Governmental Charge at the time and in the manner provided in this Section 8.15); or

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

**8.16 Developer's Liabilities.** 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 Developer to any other person or entity. Developer shall immediately notify DPD and DOH of any and all events or actions which may materially affect Developer's ability to carry on its business operations or perform its obligations under this Agreement or any other documents and agreements.

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

**8.18 Recording and Filing.** Owner shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed against the Project Property on the date hereof in the conveyance and real Project 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. Owner shall pay all fees and charges incurred in connection with any such recording. Upon recording, Owner shall immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

**8.19 Real Estate Provisions.**

(a) **Governmental Charges.**

(i) **Payment of Governmental Charges.** Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon Developer, the Project Property or the Project, or become due and payable, and which create or may create a lien upon Developer or all or any portion of the Project 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 Developer, the Project Property or the Project including but not limited to real estate taxes.

(ii) Right to Contest. Owner 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 Project Property. Owner's right to challenge real estate taxes applicable to the Project Property is limited as provided for in Section 8.18(c) below; provided, that such real estate taxes must be paid in full when due and may be disputed only after such payment is made. No such contest or objection shall be deemed or construed in any way as relieving, modifying or extending Owner's covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless Owner has given prior written notice to DPD of Developer's intent to contest or object to a Governmental Charge and, unless, at DPD's sole option, (A) Owner shall demonstrate to DPD's satisfaction that legal proceedings instituted by Owner 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 Project Property to satisfy such Governmental Charge prior to final determination of such proceedings; and/or (B) Owner shall furnish a good and sufficient bond or other security satisfactory to DPD in such form and amounts as DPD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Project 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) Owner's Failure To Pay Or Discharge Lien. If Owner fails to pay any Governmental Charge or to obtain discharge of the same, Owner shall advise DPD thereof in writing, at which time DPD may, but shall not be obligated to, and without waiving or releasing any obligation or liability of Owner under this Agreement, in DPD's sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect thereto which DPD deems advisable. All sums so paid by DPD, if any, and any expenses, if any, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be promptly disbursed to DPD by Owner. 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 Owner fails to pay any Governmental Charge, the City, in its sole discretion, may require Owner to submit to the City audited Financial Statements at Developer's own expense.

(c) Real Estate Taxes.

(i) Real Estate Tax Exemption. With respect to the Project Property or the Project, neither the Owner 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, except for (i) obtaining Class 9 designation or participating in the Cook County Affordable Housing Special Assessment Program, (ii) obtaining any reduction in assessed value available for the Project Property under 35 ILCS 200/15-178, and (iii) obtaining any exemption for which DPD has provided its prior written consent.

(ii) Covenants Running with the Land. The parties agree that the restrictions contained in this Section 8.19(c) are covenants running with the land and this Agreement shall be recorded by the Owner as a memorandum thereof, at the Owner's expense, with the Recordings Division of the Cook County Clerk on the Closing Date. These restrictions shall be binding upon the Developer Parties and their 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 Owner agrees that any sale, lease, conveyance, or transfer of title to all or any portion of the Project 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 Parties, their successors or assigns, may waive and terminate the Developer Parties' covenants and agreements set forth in this Section 8.18(c).

(d) Notification to the Cook County Assessor of Change in Use and Ownership. If required under 35 ILCS 200/15-20 due to a change in use or ownership of the Project Property, within 90 days after the Closing Date, Developer shall complete a letter of notification, in accordance with 35 ILCS 200/15-20, notifying the Cook County Assessor of such change in use or ownership. After delivery of the notification, Developer shall forward a copy of the return receipt to DPD, with a copy to the City's Corporation Counsel's office.

8.20 Annual Report(s). Beginning with the issuance of the Certificate and continuing throughout the Term of the Agreement, Developer shall submit to DPD the Annual Compliance Report within 30 days after the end of the calendar year to which the Annual Compliance Report relates.

8.21 Inspector General. It is the duty of Developer and the duty of any bidder, proposer, contractor, subcontractor, and every applicant for certification of eligibility for a City contract or program, and all of Developer's officers, directors, agents, partners, and employees and any such bidder, proposer, contractor, subcontractor or such applicant, to cooperate with the Inspector General in any investigation or hearing undertaken pursuant to Chapter 2-56 of the Municipal Code. Developer represents that it understands and will abide by all provisions of Chapter 2-56 of the Municipal Code and that it will inform subcontractors of this provision and require their compliance.

8.22 Broker's Fees. Developer Parties have no liability or obligation to pay any fees or commissions to any broker, finder, or agent with respect to any of the transactions contemplated by this Agreement for which the City could become liable or obligated.

8.23. FOIA and Local Records Act Compliance.

(a) FOIA. The Developer acknowledges that the City is subject to the Illinois Freedom of Information Act, 5 ILCS 140/1 et. seq., as amended ("FOIA"). The FOIA requires the City to produce records (very broadly defined in FOIA) in response to a FOIA request in a very short period of time, unless the records requested are exempt under the FOIA. If the Developer receives a request from the City to produce records within the scope of FOIA, then the Developer

covenants to comply with such request within 48 hours of the date of such request. Failure by the Developer to timely comply with such request shall be an Event of Default.

(b) Exempt Information. Documents that the Developer submits to the City under Section 8.21, (Annual Compliance Report) or otherwise during the Term of the Agreement that contain trade secrets and commercial or financial information may be exempt if disclosure would result in competitive harm. However, for documents submitted by the Developer to be treated as a trade secret or information that would cause competitive harm, FOIA requires that Developer mark any such documents as "proprietary, privileged or confidential." If the Developer marks a document as "proprietary, privileged and confidential", then DPD will evaluate whether such document may be withheld under the FOIA. DPD, in its discretion, will determine whether a document will be exempted from disclosure, and that determination is subject to review by the Illinois Attorney General's Office and/or the courts.

(c) Local Records Act. The Developer acknowledges that the City is subject to the Local Records Act, 50 ILCS 205/1 et. seq, as amended (the "Local Records Act"). The Local Records Act provides that public records may only be disposed of as provided in the Local Records Act. If requested by the City, the Developer covenants to use its best efforts consistently applied to assist the City in its compliance with the Local Records Act

8.24 Affordable Housing Covenant. Developer agrees and covenants to the City that, prior to any foreclosure of the Project Property by a lender providing Lender Financing, the provisions of City Regulatory Agreements executed by Owner and the City as of the date hereof shall govern the terms of 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 Project shall be operated and maintained solely as residential rental housing;
- (c) Two (2) residential rental units, including one (1) one-bedroom unit and one (1) two-bedroom unit shall be affordable to 30% AMI Households (as defined below);
- (d) Five (5) residential rental units, including two (2) two-bedroom units and three (3) three-bedroom units, shall be affordable to 50% AMI Households (as defined below);
- (e) Thirty-seven (37) residential rental units, including must twenty-six (26) two-bedroom units and eleven (11) three-bedroom units shall be affordable to 60% AMI Households (as defined below);
- (f) As used in this Section 8.24, the following terms has the following meanings:
  - (i) "Household" shall mean one or more individuals, whether or not related by blood or marriage.

- (ii) "30% AMI Households" shall mean Households whose annual income does not exceed thirty percent (30%) 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 HUD, and thereafter such income limits shall apply to this definition.
- (iii) "50% AMI Households" shall mean Households whose annual income does not exceed fifty percent (50%) 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 HUD, and thereafter such income limits shall apply to this definition.
- (iv) "60% AMI Households" shall mean Households 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 HUD, and thereafter such income limits shall apply to this definition.

(f) The covenants set forth in this Section 8.24 shall run with the land and be binding upon any transferee.

(g) The City and Developer may enter into a separate agreement to implement the provisions of this Section 8.24.

8.25 Survival of Covenants. All warranties, representations, covenants and agreements of Developer contained in this Section 8 and elsewhere in this Agreement shall be true, accurate and complete at the time of 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.

8.26 Sustainable Development Policy. Developer shall provide evidence acceptable to the City that they have complied with the Sustainable Development Policy for the Project. If a default occurs under this Section 8.26 after the receipt of written notice and a 60-day cure period, the City shall have the right to reduce the City Funds by \$250,000 as described in Section 15.02.

8.27 Increment and Rate of Return Reporting. Developer agrees to report (1) the increment projected to be created by the Project, and (2) the increment to date created by the Project, at the Closing Date. Developer agrees to report the Project's rate of return, which report is to be independently verified by a third party chosen by the City.

## 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. 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 Developer operating on the Project Property (collectively, with 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 Project 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 non-discrimination 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 Project 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.** 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 (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, 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.

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 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.

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

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

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

At the direction of DPD, affidavits and other supporting documentation will be required of 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 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 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 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 Developer, the General Contractor and/or the subcontractors to prosecution. Any retainage to cover contract performance that may become due to Developer pursuant to Section 2-92-250 of the Municipal Code may be withheld by the City pending the Chief Procurement Officer's determination as to whether 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.

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. 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 (the "Procurement Program"), and (ii) the Minority- and Women-Owned Business Enterprise Construction Program, Section 2-92-650 et seq., Municipal Code (the "Construction Program," and collectively with the Procurement Program, the "MBE/WBE Program"), and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this Section 10.03, during the course of the Project, at least the

following percentages of the MBE/WBE Budget (as set forth in Exhibit H-2 hereto) shall be expended for contract participation by MBEs and by WBEs:

- (1) At least 26 percent by MBEs; and
- (2) At least 6 percent by WBEs.

(b) For purposes of this Section 10.03 only, Developer (and any party to whom a contract is let by Developer in connection with the Project) shall be deemed a "contractor" and this Agreement (and any contract let by 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, as applicable.

(c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code, Developer's MBE/WBE commitment may be achieved in part by Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by 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 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 Developer's MBE/WBE commitment as described in this Section 10.03. In accordance with Section 2-92-730, Municipal Code, Developer shall not substitute any MBE or WBE General Contractor or subcontractor without the prior written approval of DPD and/or DOH.

(d) 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 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 Developer's compliance with this MBE/WBE commitment. 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 Developer, on five Business Days' notice, to allow the City to review 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, 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, as applicable.

(f) Any reduction or waiver of 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, as applicable.

(g) Prior to the commencement of the Project, Developer shall be required to meet with the City's monitoring staff with regard to 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, 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, 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 Developer is not complying with its obligations under this Section 10.03, shall, upon the delivery of written notice to 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 Developer to halt the Project, (2) withhold any further payment of any City Funds to Developer or the General Contractor, or (3) seek any other remedies against Developer available at law or in equity.

## SECTION 11. ENVIRONMENTAL MATTERS

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

The Developer Parties have obtained a Phase I ESA of the Project Property dated November 30, 2021, and a follow-up Phase II ESA dated April, 27 2022. The Phase II ESA disclosed the presence of contamination exceeding residential remediation objectives as set forth in 35 Ill. Adm. Code Part 742, and the Developer Parties have agreed to enroll the Project Property (or the applicable portion thereof) in the SRP and take all necessary and proper steps to obtain a RAP Approval Letter. The Developer Parties acknowledge and agree that they may not commence construction on the Project Property until the IEPA issues the RAP Approval Letter for the Project Property. Upon receipt of the RAP Approval Letter, the Developer Parties covenant and agree to promptly complete all Remediation Work necessary to obtain a Final Comprehensive Residential NFR Letter for the Project Property. 2FM shall have the right to review in advance and approve all documents submitted to the IEPA under the SRP, as amended or supplemented from time to time, including, without limitation, the SRP Documents and any changes thereto, and the Developer Parties' estimate of the cost to perform the Remediation Work. The City must be named in a reliance letter for all environmental assessments prepared for the Project Property. The Developer Parties shall bear sole responsibility for all costs of the Remediation Work necessary to obtain the Final Comprehensive Residential NFR Letter, and any other investigative and

cleanup costs associated with the Project Property, including, but not limited to, the removal of pre-existing building foundations, demolition debris, and soil or soil gas not meeting the requirements of 35 Ill. Adm. Code Part 742.305. In addition, the Developer Parties shall remove and close any identified underground storage tanks ("USTs") in accordance with applicable regulations, including 41 Ill. Adm. Code Part 175, and shall properly address any identified leaking USTs in accordance with 35 Ill. Adm. Code Part 734. The Developer Parties shall promptly transmit to the City copies of all Environmental Documents prepared or received with respect to the Remediation Work, including, without limitation, any written communications delivered to or received from the IEPA or other regulatory agencies. The Developer Parties acknowledge and agree that they may not seek a certificate of occupancy or otherwise permit occupancy of the Project until the IEPA has issued, 2FM has approved (which approval will not be unreasonably withheld), and the Developer Parties have recorded a Final Comprehensive Residential NFR Letter for the Project Property with the Cook County Clerk's Office. If the Developer Parties fail to obtain the Final Comprehensive Residential NFR Letter within six (6) months of the submission of the RACR to the IEPA, then the City shall have the right to record a notice of default against the Project Property. The Developer Parties must abide by the terms and conditions of the Final Comprehensive Residential NFR Letter.

The Developer Parties acknowledge that, except in the case of information specifically designated by the Developer Parties to be treated confidentially as a trade secret or secret process, the City may make environmental assessments, hazardous material building surveys, IEPA site remediation program submittals, or similar environmental documents relating to the property publicly available, and Developer Parties consent to the City's publication of those documents.

The Developer Parties, on behalf of themselves and their officers, directors, employees, successors, assigns and anyone claiming by, through or under any of them, including, without limitation, each and every person, firm, corporation, limited liability company, trust or other entity owning, leasing, occupying, using or possessing any portion of the Project Property under or through the Developer Parties occurring after the Closing Date (collectively, the "Indemnifying Parties"), hereby releases, relinquishes and forever discharges the City, its officers, agents and employees (collectively, the "City Parties"), from and against any and all Losses which the Indemnifying Parties ever had, now have, or hereafter may have, whether grounded in tort or contract or otherwise, in any and all courts or other forums, of whatever kind or nature, whether known or unknown, foreseen or unforeseen, now existing or occurring after the Closing Date based upon, arising out of or in any way connected with, directly or indirectly, regardless of whether or not caused by, or within the control of the Indemnifying Parties: (i) any environmental contamination, pollution or hazards associated with the Project Property or any improvements, facilities or operations located or formerly located thereon, including, without limitation, any release, emission, discharge, generation, transportation, treatment, storage or disposal of Hazardous Substances or Other Regulated Material, or threatened release, emission or discharge of Hazardous Substances or Other Regulated Material; (ii) the structural, physical or environmental condition of the Project Property, including, without limitation, the presence or suspected presence of Hazardous Substances or Other Regulated Material in, on, under or about the Project Property or the migration, escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Substances or Other Regulated Material from or the Project Property to other real property, or from other real property to the Project Property, including any other real property in which the Indemnifying Parties or their Affiliates holds any estate or interest whatsoever; (iii) any violation of, compliance with, enforcement of, or actual or asserted liability or obligation under any Environmental Laws, including, without limitation, any liens, governmental or regulatory body response costs, natural resource damages or Losses arising under the Comprehensive Environmental Response,

Compensation and Liability Act, 42 U.S.C. § 6901 et seq., as amended; and (iv) 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 Project Property or any improvements, facilities or operations located or formerly located thereon. the Indemnifying Parties with respect to the Project Property, including, without limitation, each and every person, firm, corporation, limited liability company, trust or other entity owning, leasing, occupying, using or possessing any portion of the Project Property under or through the Developer Parties following the Closing Date. The Developer Parties acknowledge and agree that the foregoing covenant of release constitutes a material inducement to the City to enter into this Agreement, and that, but for such release, the City would not have agreed to convey the Disposition Parcels to the Developer Parties. It is expressly agreed and understood by and between the Developer Parties and the City that, should any future obligation of the Developer Parties or any other Indemnifying Parties arise or be alleged to arise in connection with any environmental, soil or other condition of the Project Property, neither the Developer Parties nor any other Indemnifying Parties may assert that those obligations must be satisfied in whole or in part by the City, because this Section 11 contains a full, complete and final release of all such claims., except as provided above for the willful misconduct of a City Party following the Closing Date.

This Section 11 shall survive the Closing or any termination of this Agreement (regardless of the reason for such termination).

## SECTION 12. INSURANCE

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 Project 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 Project Property. All Risk Project Property Insurance at replacement value of the Project 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 Project 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 Project 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 Project Property, Developer must provide cause to be provided with respect to the operations that Contractors perform, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy must have limits of not less than \$2,000,000 per occurrence and \$6,000,000 in the aggregate for losses arising out of injuries to or death of all persons, and for damage to or destruction of Project Property, including the loss of use thereof.

(v) All Risk /Builders Risk. When Developer undertakes any construction, including improvements, betterments, and/or repairs, 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, Developer must cause remediation contractor to provide Contractor Pollution Liability covering bodily injury, Project 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 Project Property Insurance at replacement value of the Project 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.

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

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 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 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.

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. Each Developer party 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 Indemnitees 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:

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

(b) such Developer party'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

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

(d) any act or omission by such Developer party or any of its Affiliates; or

(d) 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. 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 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 Developer's offices for inspection, copying, audit and examination by an authorized representative of the City, at Developer's expense. Developer shall incorporate this right to inspect, copy, audit and examine all books and records into all contracts entered into by 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 Project 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 parties hereunder:

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

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

(c) the making or furnishing by a Developer party 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 Project Property, including any fixtures now or hereafter attached thereto, other than the Permitted Liens, or the making or any attempt to make any levy, seizure or attachment thereof;

(e) the commencement of any proceedings in bankruptcy by or against a Developer party or for the liquidation or reorganization of a Developer party, or alleging that a Developer party is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of the Developer party'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 a Developer party; 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 a Developer party, for any substantial part of the Developer party's assets or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of a Developer party; 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 a Developer party which remains unsatisfied or undischarged and in effect for sixty (60) days after such entry without a stay of enforcement or execution;

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

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

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

(k) before the expiration of the Term of the Agreement, a majority of the ownership interests of Developer Parties are sold or transferred without the prior written consent of the City except for a Permitted Transfer pursuant to Section 4.09;

(l) the failure of a Developer party, or the failure by any party that is a Controlling Person (defined in Section 1-23-010 of the Municipal Code) with respect to Developer, to maintain eligibility to do business with the City in violation of Section 1-23-030 of the Municipal Code; such failure shall render this Agreement voidable or subject to termination, at the option of the Chief Procurement Officer;

(m) failure to provide the City with an Annual Compliance Report within thirty (30) days of when it is due, as set forth in Section 8.20; or

(n) failure to adhere to the policies and procedures in ATS Manual and pre-construction meeting.

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

15.02 Remedies. Upon the occurrence of an Event of Default, subject to all applicable notice and cure provisions, the City may terminate this Agreement and any other agreements to which the City and Developer are or shall be parties, suspend disbursement of City Funds, or seek reimbursement of any City Funds paid. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to damages, injunctive relief or the specific performance of the agreements contained herein.

Upon the occurrence of an Event of Default under Section 8.24, the Developer Parties or Affiliates shall be obligated to reimburse the City all of the City Funds disbursed to any one of the Developer parties to date. 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 reimbursement of all or part of the City Funds, injunctive relief or the specific performance of the agreements contained herein. Without limiting the generality of the foregoing, with respect to Events of Defaults by a Developer Party prior to the issuance of a Certificate, the City shall be entitled to seek reimbursement of City Funds from Developer parties.

Upon the occurrence of an Event of Default caused by failing to provide the City with an Annual Compliance Report, Developer shall be obligated to pay to the City the amount of \$10,000 as liquidated damages, and not as a penalty, which such payment shall be required no more often than once per calendar year. Any payment of liquidated damages by Developer shall not relieve Developer of its obligation under Section 8.20.

For an Event of Default caused by failing to meet or comply with the Sustainable Development Policy, in addition to any other remedy the City may choose to pursue, the City shall have the right to reduce the City Funds by \$250,000.

15.03 Curative Period. In the event Developer shall fail to perform a monetary covenant which Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless 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 Developer shall fail to perform a non-monetary covenant which Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless 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, 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.

15.04 Right to Cure by Limited Partner and Lenders other than the Sponsor. 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 the termination of this Agreement,

the cancellation, suspension, or reduction of any payment due from the City under this Agreement, the City shall send notice of such intended exercise to the parties identified in Section 17 and the Limited Partner and any lender providing Lender Financing, other than the Developer, shall have the right (but not the obligation) to cure such an Event of Default under the following conditions:

- (i) if the Event of Default is a monetary default, the cure is completed within 30 days after the later of: (a) the expiration of the cure period, if any, granted to the Developer with respect to such monetary default; or (b) receipt by the lenders and the Limited Partner of such notice from the City; and
- (ii) if the Event of Default is of a non-monetary nature, the cure is completed within 30 days after the later of: (a) the expiration of the cure period, if any, granted to the Developer with respect to such non-monetary default; or (b) receipt of such notice from the City; provided, however, that if such non-monetary default is not reasonably capable of being cured by the lenders or the Limited Partner within such 30-day period, such period shall be extended for such reasonable period of time as may be necessary to cure such default, provided that the party seeking such cure must continue diligently to pursue such cure and, if possession of the Project is necessary to effect such cure, the party seeking such cure must have instituted appropriate legal proceedings to obtain possession.

#### SECTION 16. MORTGAGING OF THE PROJECT

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

(a) In the event that a mortgagee or any other party shall succeed to Developer's interest in the Project 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 Developer's interest hereunder in accordance with Section 18.14 hereof, the City may, but shall not be obligated to, attorn to and recognize such party as the successor in interest to 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 Developer's interest in the Project 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 Developer's interest hereunder in accordance with Section

18.14 hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "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 Developer's interest under this Agreement, such party has no liability under this Agreement for any Event of Default of Developer which accrued prior to the time such party succeeded to the interest of Developer under this Agreement, in which case Developer shall be solely responsible. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of Developer's interest hereunder, such party shall be entitled to no rights and benefits under this Agreement, and such party shall be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land.

(c) Prior to the issuance by the City to Developer of a Certificate pursuant to Section 7 hereof, no New Mortgage shall be executed with respect to the Project Property or any portion thereof without the prior written consent of the Commissioner of DPD.

**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.

<p><b>If to the City:</b></p> <p>City of Chicago                  Department of Housing                  121 North LaSalle Street, Room 1006                  Chicago, Illinois 60602                  Attention: Commissioner</p>	<p><b>If to Developer:</b></p> <p>CARE Manor I L.P.                  954 W. Washington Blvd                  Suite 510                  Chicago, Illinois 60607  <u>Attention:</u> Gregory Miller</p> <p>And</p> <p>CARE Manor Inc.                  4540 W. Washington Blvd                  Chicago, Illinois 60624  <u>Attention:</u> David T. Whittley</p>
<p><b>With Copies To:</b></p> <p>City of Chicago                  Department of Law                  121 North LaSalle Street, Room 600                  Chicago, Illinois 60602                  Attention: Finance and Economic Development Division</p>	<p><b>With Copies To:</b></p> <p>CIBC Bank USA                  120 S. LaSalle Street                  Chicago, Illinois 60603  <u>Attention:</u> James Scudder</p> <p>And</p> <p>Charity &amp; Associates, P.C.</p>

	20 N. Clark St., Suite 3300 Chicago, Illinois 60602 Attention: Elvin E. Charity
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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 the Redevelopment Plan 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 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 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 Developer from the City or any successor in interest or on any obligation under the terms of this Agreement.

18.04 Further Assurances. 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 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 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 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.

18.09 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.

18.10 Conflict. In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances, such ordinance(s) shall prevail and control.

18.11 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.

18.12 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.

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

18.14 Assignment. Except as permitted in Section 4.09, including the Developer's collateral assignment of this Agreement to the Senior Lender for the Project, 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 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 8.19 (Real Estate Provisions), 8.24 (Affordable Housing Covenant), and 8.25 (Survival of Covenants) hereof, for the Term of the Agreement. Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

18.15 Binding Effect. This Agreement shall be binding upon Developer, the City and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of 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.

18.16 Force Majeure. Neither the City nor 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.

18.17 Business Economic Support Act. Pursuant to the Business Economic Support Act (30 ILCS 760/1 et seq.), if Developer is required to provide notice under the WARN Act, 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 Developer has locations in the State. Failure by 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.

18.18 Venue and Consent to Jurisdiction. If there is a lawsuit under this Agreement, each party may hereto agree 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.

18.19 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.

18.20 Business Relationships. Developer acknowledges (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code, (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 that creates a "Financial Interest" (as defined in

Section 2-156-010 of the Municipal Code)(a "Financial Interest"), 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 that creates a Financial Interest, 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 that creates a Financial Interest, 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. 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.

18.21 Parties in Interest/No Third Party Beneficiaries. The terms and provisions of this Agreement are binding upon and inure to the benefit of, and are enforceable by, the respective successors and permitted assigns of the parties hereto. This Agreement will 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. Nothing contained in this Agreement, nor any act of the City or the Developer, will be deemed or construed by any of the parties hereto or by third persons, to create any relationship of third-party beneficiary, principal, agent, limited or general partnership, joint venture, or any association or relationship involving the City or Developer parties.

18.22 Debarment Certification. Failure by the Developer or any controlling person of either, as defined in Section 1-23-010 of the Municipal Code, thereof to maintain eligibility to do business with the City as required by Section 1-23-030 of the Municipal Code shall be grounds for termination of this Agreement and the transactions contemplated thereby.

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

**CARE MANOR I L.P.**  
An Illinois limited partnership

By: CARE MANOR INC.,  
An Illinois not-for-profit corporation,  
its General Partner

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

**UNITED FOR BETTER LIVING, INC. NFP,**  
An Illinois not-for-profit corporation,

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

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

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

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, \_\_\_\_\_, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ of \_\_\_\_\_, an Illinois limited partnership (the "Owner"), 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 as the [\_\_\_\_\_] of the Care Manor Inc., an Illinois not-for-profit corporation and General Partner of the Owner, as his/her free and voluntary act and as the free and voluntary act of Owner, for the uses and purposes therein set forth.

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

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

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

(SEAL)

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, \_\_\_\_\_, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ of \_\_\_\_\_, an Illinois not-for-profit corporation (the "Sponsor"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the [Board of Directors] of Developer, as his/her free and voluntary act and as the free and voluntary act of Developer, for the uses and purposes therein set forth.

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

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

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

(SEAL)

STATE OF ILLINOIS )  
 ) SS  
 COUNTY OF COOK )

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

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

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

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

(SEAL)

[(Sub)Exhibits "A", "D", "E", "F", "I", "K", "M", "N" and "O" referred to in this CARE Manor I L.P. Redevelopment Agreement intentionally omitted.]

[(Sub)Exhibits "B-1" and "B-2" referred to in this CARE Manor I L.P. Redevelopment Agreement unavailable at time of printing.]

(Sub)Exhibits "C", "G", "H-1", "H-2", "J" and "L" referred to in this CARE Manor I L.P. Redevelopment Agreement read as follows:

*(Sub)Exhibit "C".*  
(To CARE Manor I L.P. Redevelopment Agreement)

*TIF-Funded Improvements.*

Category	Project Budget*	TIF Eligible Cost
Affordable Housing Unit Hard Costs	\$23,713,679	\$ 8,473,212
Environmental Remediation	328,015	328,015
Eligible Soft Costs (Constr. Related)		
Architect -- Design	777,721	295,533.98
Architect -- Supervision	388,860	147,766.80
Engineer	105,400	40,052.00
Soft Costs	1,683,455	554,212.90
TOTAL:		\$ 9,838,792

Notwithstanding the total of TIF-Funded Improvements or the amount of TIF-eligible costs, the assistance to be provided by the City is limited to the amount described in Section 4.03 and shall not exceed \$10,000,000.

*(Sub)Exhibit "G".*  
(To CARE Manor I L.P. Redevelopment Agreement)

*Permitted Liens.*

1. Liens Or Encumbrances Against The Project Property:

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

---

\* With the exception of Land, Project Budget amounts above are based on 44 affordable units.

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

[Not attached for ordinance purposes.]

*(Sub)Exhibit "H-1".*  
(To CARE Manor I L.P. Redevelopment Agreement)

*Project Budget.*

Land Cost	\$ 68,700
Transfer Stamps	1,500
Insurance	3,000
Legal	5,000
Other Acquisition	2
Net Construction Costs	19,443,022
General Conditions	1,166,581
Overhead	388,860
Profit	1,166,581
Building Permits	45,000
GC Insurance	132,883
Site Preparation	250,000
Contingency	1,120,752
Electrical and Gas	75,000
Sewer and Water	50,000
Contingency	12,500
Soil Testing	25,500

Architect -- Design	\$777,721
Architect -- Supervision	388,860
Engineering Fees	105,400
Blueprints and Reproductions	17,000
Permit Expediter	45,000
As-Is Plats and Surveys	50,000
Accountant -- 8609s	10,000
Accountant -- General	25,000
Legal -- Organizational	100,000
Legal -- Syndication	80,000
Appraisal	13,000
Market Study	15,000
Phase I Environ. Report	18,000
Phase II Environ. Report	52,515
Title and Recording Fees	55,000
Other Professional Fees	18,000
Tax Credit Issuer Fees	300,000
Application Fees	16,500
Construction Points	270,000
Perm Loan Points	85,000
Construction Inspection	15,000
Architect Fee	10,000
Lender Legal Fees	65,000
Bond -- Underwriter's Counsel	65,000

Bond -- Bond Counsel	\$ 114,000
Construction Interest	1,932,000
Liability Insurance	35,000
Real Estate Taxes	50,000
Leasing Personnel	35,000
Advertising	10,000
Model Units	10,000
Developer Fee	1,458,455
Deferred Developer Fee	225,000
Lease-Up Reserve	118,000
Insurance Reserve	60,000
Property Tax Reserve	60,000
Operating Reserve	433,652
Replacement Reserve	44,000
Other Reserves	500,000
TOTAL	\$ 31,636,984

*(Sub)Exhibit "H-2".*  
(To CARE Manor I L.P. Redevelopment Agreement)

*MBE/WBE Budget.*

Project Hard Costs	\$ 23,876,679
Project Soft Costs (Arch., Eng., Etc.)	1,314,481
Project MBE/WBE Total Budgets	25,191,160

Project MBE Total at 26 percent	\$6,549,702
Project WBE Total at 6 percent	1,511,470

\* To the extent that contingency is used, it will be included in the MBE/WBE budget.

*(Sub)Exhibit "J".*

(To CARE Manor I L.P. Redevelopment Agreement)

*Opinion Of Developer's Counsel.*

[To be retyped on Developer's Counsel's letterhead]

\_\_\_\_\_  
 City of Chicago  
 121 North LaSalle Street  
 Chicago, Illinois 60602

Attention: Corporation Counsel

Ladies and Gentlemen:

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

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

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

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

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

In addition to the foregoing, we have examined:

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

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

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

Based on the foregoing, it is our opinion that:

1. Developer is a corporation duly organized, validly existing and in good standing under the laws of its state of [incorporation] [organization], has full power and authority to own and lease its properties and to carry on its business as presently conducted, and is in good standing and duly qualified to do business as a foreign [corporation][entity] under the laws of every state in which the conduct of its affairs or the ownership of its assets requires such qualification, except for those states in which its failure to qualify to do business would not have a material adverse effect on it or its business.

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

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

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

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

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

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

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

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

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

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

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

[Note: include a reference to the laws of the state of incorporation/organization of Developer, if other than Illinois.]

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

Very truly yours,

\_\_\_\_\_

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

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

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

*(Sub)Exhibit "L".*  
(To CARE Manor I L.P. Redevelopment Agreement)

*Requisition Form.*

State of Illinois )  
  ) SS.  
County of Cook )

The affiant, \_\_\_\_\_, \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ (the "Developer"), hereby certifies that with respect to that certain CARE Manor I L.P. Redevelopment Agreement between the Developer and the City of Chicago dated \_\_\_\_\_, \_\_\_\_\_ (the "Agreement"):

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

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

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

C. Developer requests reimbursement for the following cost of TIF-Funded Improvements:

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

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

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

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

2. No Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default, exists or has occurred.

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

CARE Manor I L.P.

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

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

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

\_\_\_\_\_

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

Agreed and Accepted:

\_\_\_\_\_  
Name

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

City of Chicago  
Department of Planning and Development

*Exhibit "F".*  
(To Ordinance)

*Legal Description of Property.*

[Subject To Final Title and Survey.]

City Property:

Lots 13 and 14 in Block 38 in West Chicago Land Company's Subdivision of the south half of Section 10, Township 39 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

Commonly Known As:

4531 and 4533 West Washington Boulevard  
Chicago, Illinois.

Property Index Numbers (PINs):

16-10-330-007-0000; and

16-10-330-008-0000.

Private Property:

Lots 15, 16, 17, 18, 19, 20 and 21 in Block 38 in West Chicago Land Company's Subdivision of the south half of Section 10, Township 39 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

Commonly Known As:

4549 West Washington Boulevard  
Chicago, Illinois.

Property Index Numbers (PINs):

16-10-330-002-0000;

16-10-330-003-0000;

16-10-330-004-0000;

16-10-330-005-0000; and

16-10-330-006-0000.

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ISSUANCE OF AFFORDABLE HOUSING LOAN AND OTHER FINANCIAL ASSISTANCE TO AND EXECUTION OF REDEVELOPMENT AGREEMENT WITH LEGENDS A-3 LLC FOR LEASEHOLD ACQUISITION OF LAND AND CONSTRUCTION OF TWO BUILDINGS GENERALLY LOCATED AT 4520 S. STATE ST.

[O2024-0010980]

The Committee on Finance submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on Finance, to which was referred an ordinance concerning the issuance of financial assistance and execution of a tax increment financing (TIF) redevelopment agreement with Legends A-3 LLC for the Legends South A3 mixed-income housing development located at 4520 South State Street in the 3<sup>rd</sup> Ward (O2024-0010980), in an amount not to exceed \$2,983,269 in multi-family program funds and \$10,000,000 in TIF funds, having had the same under advisement, begs leave to report and recommend that Your Honorable Body *Pass* the proposed ordinance transmitted herewith.

This recommendation was concurred in by a voice vote of the members of the committee present, with no dissenting votes on September 16, 2024.

Respectfully submitted,

(Signed) PAT DOWELL,  
*Chair.*

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

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

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 (the "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 Housing (the "DOH"); and

WHEREAS, DOH has preliminarily reviewed and approved the making of a loan to Legends A-3 LLC, an Illinois limited liability company (the "Borrower"), of which Legends A-3 Manager LLC, an Illinois limited liability company, is the general partner (the "General Partner"), in an amount not to exceed \$2,983,269 (the "Loan") to be funded from Multi-Family Program Funds pursuant to the terms and conditions set forth in Exhibit A attached hereto and made a part hereof; and

WHEREAS, Pursuant to an ordinance adopted by the City Council on July 21, 2004 and published at pages 27705 -- 27826 of the *Journal of the Proceedings of the City Council of the City of Chicago* (the "*Journal*") of such date, a certain redevelopment plan and project (the "Plan") for the 47<sup>th</sup>/State Redevelopment Project Area (the "Area") was approved pursuant to the Illinois Tax Increment Allocation Redevelopment Act, as amended (65 ILCS 5/11-74.4-1, et seq.) (the "Act"); and

WHEREAS, Pursuant to an ordinance adopted by the City Council on July 21, 2004 and published at pages 27827 -- 27832 of the *Journal* of such date, the Area was designated as a redevelopment project area pursuant to the Act; and

WHEREAS, Pursuant to an ordinance (the "TIF Ordinance") adopted by the City Council on July 21, 2004 and published at pages 27833 -- 27843 of the *Journal* of such date, tax increment allocation financing was adopted pursuant to the Act as a means of financing certain Area redevelopment project costs (as defined in the Act) incurred pursuant to the Plan; and

WHEREAS, The Borrower and CHA Community Support Corporation, an Illinois not-for-profit corporation (the "CHA CSC", and together with Borrower, the "Developer"), plan to develop real property located within the Area commonly known as 4520 South State Street, Chicago, Illinois 60609 (the "Property"), and Borrower shall commence and complete construction of two buildings containing a total of 52 units, of which 42 units will be affordable apartments for low-income families (together with related common areas along with commercial space, the "Project"); and

WHEREAS, The Developer will be obligated to undertake the Project in accordance with the terms and conditions of a proposed redevelopment agreement ("Redevelopment Agreement") to be executed by the Developer and the City, with such Project to be financed in part by certain pledged incremental taxes deposited from time to time in the 47<sup>th</sup>/State Tax Increment Financing Redevelopment Project Area Special Tax Allocation Fund for the Area (the "TIF Fund") pursuant to Section 5/11-74.4-8(b) of the Act ("Incremental Taxes"); 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 DOH (the "DOH Commissioner") and a designee of the DOH 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. The Project (as described on Exhibit A hereto) shall be deemed to qualify as "Affordable Housing" for purposes of Chapter 16-18 of the Municipal Code of Chicago (the "Municipal Code"). Sections 2-44-080 through 2-44-105 of the Municipal Code shall not apply to the Project or the Property (as defined on Exhibit A hereto).

SECTION 4. Upon the approval of the Additional Financing, the Commissioner of DPD or a designee thereof (the "Authorized DPD 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 with the Developer, and such other supporting documents as may be necessary to carry out and comply with the provisions of such agreements, with such changes, deletions and insertions as shall be approved by the persons executing such agreements. The Redevelopment Agreement shall be in substantially the form attached hereto as Exhibit B and made a part hereof and hereby approved with such changes therein as shall be approved by the Authorized DPD Officer executing the same, with such execution to constitute conclusive evidence of such officer's approval of any changes or revisions from the form of Redevelopment Agreement attached to this ordinance.

SECTION 5. The City Council hereby finds that the City is authorized to pay an aggregate amount not to exceed \$10,000,000 ("City Funds") from Incremental Taxes deposited in the general account of the TIF Fund to the Developer to finance a portion of the eligible costs included within the Project, including securing any portion of the Additional Financing. The proceeds of the City Funds are hereby appropriated for the purposes set forth in this Section 6.

SECTION 6. The Mayor, the Chief Financial Officer, the City Comptroller, the City Clerk, the Authorized Officer and the other officers of the City are authorized to execute and deliver on behalf of the City such other documents, agreements and certificates and to do such other things consistent with the terms of this ordinance as such officers and employees shall deem necessary or appropriate in order to effectuate the intent and purposes of this ordinance.

SECTION 7. To the extent that any ordinance, resolution, rule, order or provision of the Municipal Code, 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 8. This ordinance shall be in full force and effect immediately upon its passage and approval.

Exhibits "A" and "B" referred to in this ordinance read as follows:

*Exhibit "A".*  
(To Ordinance)

*Project And Financing.*

**Borrower:** Legends A-3 LLC, an Illinois limited liability company, of which Legends A-3 Manager LLC, an Illinois limited liability company, is the general partner.

**Project:** Leasehold acquisition of land and construction of two buildings generally located at 4520 South State Street, Chicago, Illinois (the "Property") containing a total of 52 units, of which 42 units will be affordable apartments for low-income families (together with related common areas along with commercial space, the "Project").

**Affordable  
Housing  
Loan:**

**Source:** Multi-Family Program Funds.

**Amount:** Not to exceed \$2,983,269.

**Term:** 44 years plus construction period or such other term acceptable to the Authorized Officer.

**Interest:** Zero percent per annum or such interest rate as may be acceptable to the Authorized Officer.

**Security:** Non-recourse loan(s); second leasehold mortgage on the Property (the "City Mortgage").

**Additional Financing:**

1. **Senior Loan (the "Senior Loan"):**

**Construction Period:**

**Amount:** Approximately \$14,500,000 or such other amount acceptable to the Authorized Officer.

**Term:** 36 months plus two six-month extensions or such other term that is acceptable to the Authorized Officer.

**Source:** A to-be-determined bank acceptable to the Authorized Officer.

**Interest:** A to-be-determined variable rate acceptable to the Authorized Officer.

Security: Leasehold mortgage on the Property senior to the lien of the City Mortgage.

Permanent Period:

Amount: Approximately \$2,000,000 or such other amount acceptable to the Authorized Officer.

Term: 40 years or such other term that is acceptable to the Authorized Officer.

Source: A to-be-determined bank acceptable to the Authorized Officer.

Interest: A to-be-determined rate acceptable to the Authorized Officer.

Security: Leasehold mortgage on the Property senior to the lien of the City Mortgage.

\*\* Refinancing of the permanent period loan is permitted provided the principal amount does not exceed the principal amount of the loan at the time of refinancing (excluding any amounts having been advanced by the senior lender for the protection of its security interest); the interest rate does not exceed the market rate of interest for comparable loans at the time of refinancing; and the projected debt service coverage ratio exceeds the debt service coverage ratio required (if any) to be maintained under the City's Loan.

2. Seller's Note:

Amount: Approximately \$2,080,000 or such other amount acceptable to the Authorized Officer.

Term: 44 years or such other term that is acceptable to the Authorized Officer.

Source: Seller financing from CHA Community Support Corporation ("CHA CSC"), or another entity approved by the Authorized Officer.

Security: Leasehold mortgage on the Property junior to the lien of the City Mortgage, or other security acceptable to the Authorized Officer.

3. CHA Loan 1:

Amount: Approximately \$6,720,000 or such other amount acceptable to the Authorized Officer.

Term: 44 years or such other term that is acceptable to the Authorized Officer.

Source: Chicago Housing Authority.

Security: Leasehold mortgage on the Property junior to the lien of the City Mortgage, or other security acceptable to the Authorized Officer.

4. CHA Loan 2:

Amount: Approximately \$850,000 or such other amount acceptable to the Authorized Officer.

Term: 44 years or such other term that is acceptable to the Authorized Officer.

Source: Chicago Housing Authority.

Security: Leasehold mortgage on the Property junior to the lien of the City Mortgage, or other security acceptable to the Authorized Officer.

5. TIF Loan:

Amount: Approximately \$10,000,000 or such other amount acceptable to the Authorized Officer.

Term: 44 years or such other term that is acceptable to the Authorized Officer.

Source: The TIF Funds received by CHA CSC pursuant to a redevelopment agreement will then be loaned to the Borrower.

Security: Leasehold mortgage on the Property junior to the lien of the City Mortgage, or other security acceptable to the Authorized Officer.

6. Donations Tax Credit Proceeds Loan:

Amount: Approximately \$941,200 to be derived from the sale of \$990,000 IAHTC generated by the donation by Chicago Housing Authority of the Property to CHA CSC or another not-for-profit entity approved by the Authorized Officer, or such other amount acceptable to the Authorized Officer.

Term: 44 years or such other term that is acceptable to the Authorized Officer.

Source: IAHTC sales proceeds received by Chicago Housing Authority or its affiliate or another entity approved by the Authorized Officer, which funds will then be loaned to Borrower, or an affiliated entity acceptable to the Authorized Officer.

Security: Leasehold mortgage on the Property junior to the lien of the City Mortgage, or other security acceptable to the Authorized Officer.

7. ComEd Loan:

Amount: Approximately \$238,515 or such other amount acceptable to the Authorized Officer.

Term: 44 years or such other term that is acceptable to the Authorized Officer.

Source: ComEd grant to CHA CSC or another grantee acceptable to the Authorized Officer, which funds will then be loaned to Borrower.

Security: Leasehold mortgage on the Property junior to the lien of the City Mortgage, or other security acceptable to the Authorized Officer.

8. Tax Credit Equity:

Amount: Approximately \$14,037,796 or such other amount acceptable to the Authorized Officer.

Source: To be derived from the syndication of low-income housing tax credits allocated by the City and from federal 45L credits.

9. General Partner Equity:

Amount: \$100.

Source: General Partner.

*Exhibit "B".*  
(To Ordinance)

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

Legend A-3, LLC Redevelopment Agreement

This Legend A-3, LLC Redevelopment Agreement (this "Agreement") is made as of this \_ day of \_\_\_\_\_, 2024, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("DPD"), CHA Community Support Corporation, an Illinois not-for-profit corporation ("CHA CSC"), and Legend A-3, LLC, an Illinois limited liability company (the "Owner", and together with CHA CSC, the "Developer Parties" or individually each a "Developer Party").

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, in accordance with the provisions of the Act, the City Council of the City (the "City Council"): (i) approved and adopted a redevelopment plan and project (the "Redevelopment Plan") for the 47<sup>th</sup>/State redevelopment project area (the "Redevelopment Area"); (ii) designated the Redevelopment Area as a "redevelopment project area"; and (iii) adopted tax increment allocation financing for the Redevelopment Area, pursuant to ordinances (item iii, the "TIF Adoption Ordinance" and items (i) – (iii) collectively, the "TIF Ordinances") adopted on July 21, 2004 and published in the Journal for such date.

D. The Project: Owner will acquire a leasehold estate of that certain property located within the Redevelopment Area at 4520 South State Street, Chicago, Illinois 60609 and legally described on Exhibit A (the "Property") pursuant to a ground lease granted by the Chicago Housing Authority to CHA CSC and subsequently assigned to Owner, and, within the time frames set forth in Section 3.01, Owner shall commence and complete redevelopment of an approximately 70,254 square foot housing development containing a total of 52 units of which 42 units will be affordable apartments for low- income families (the "Facility") thereon. The "Project"

means the Facility and related improvements, including but not limited to the TIF-Funded Improvements defined below and set forth on Exhibit B. The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

E. Redevelopment Plan: The Project will be carried out in accordance with this Agreement and the Redevelopment Plan.

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

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

**SECTION 1. RECITALS, HEADINGS AND EXHIBITS**

The foregoing recitals are hereby incorporated into this Agreement by reference. The paragraph and section headings contained in this Agreement, including without limitation those set forth in the following table of contents, are for convenience only and are not intended to limit, vary, define, or expand the content thereof. Developer Parties agree to comply with the requirements set forth in the following exhibits which are attached to and made a part of this Agreement. All provisions listed in the Exhibits have the same force and effect as if they had been listed in the body of this Agreement.

Table of Contents	List of Exhibits
1. Recitals, Headings and Exhibits 2. Definitions 3. The Project 4. Financing 5. Conditions Precedent 6. Agreements with Contractors 7. Completion of Construction or Rehabilitation 8. Covenants/Representations/Warranties of Developer Parties 9. Covenants/Representations/Warranties of the City 10. Developer Parties' Employment Obligations 11. Environmental Matters 12. Insurance 13. Indemnification 14. Maintaining Records/Right to Inspect 15. Defaults and Remedies 16. Mortgaging of the Project 17. Notice 18. Miscellaneous	A *Legal Description of the Property B *Project Budgets (Project Budget, MBE/WBE Budget and TIF-Funded Improvements) C Requisition Form D *Preliminary TIF Projection -- Real Estate Taxes E *Funding Sources  (An asterisk (*) indicates which exhibits are to be recorded.)

## 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, and unless otherwise specified, references to Recitals, Sections, Articles and Exhibits are references to Recitals, Sections, Articles and Exhibits of this Agreement:

"Act" is defined in the Recitals.

"Affiliate" means any person or entity directly or indirectly controlling, controlled by or under common control with Developer Parties.

"Annual Compliance Report" means a signed report from Owner to the City (a) itemizing each of Developer Parties' obligations under this Agreement during the preceding calendar year, (b) certifying Developer Parties' compliance or noncompliance with such obligations, (c) attaching evidence (whether or not previously submitted to the City) of such compliance or noncompliance and (d) certifying that Developer Parties are not in default with respect to any provision of this Agreement, the agreements evidencing the Lender Financing, if any, or any related agreements; provided, that the obligations to be covered by the Annual Compliance Report shall include the following: (1) compliance with the Operating Covenant (Section 8.06); (2) compliance with the Jobs Covenant (Section 8.06); (3) delivery of Financial Statements and unaudited financial statements (Section 8.13); (4) delivery of updated insurance certificates, if applicable (Section 8.14); (5) delivery of evidence of payment of Non-Governmental Charges, if applicable (Section 8.15); (6) delivery of evidence of compliance with the Sustainable Development Policy (Section 8.22); (7) compliance with the Increment and Rate of Return Reporting (Section 8.25); and (8) compliance with all other executory provisions of this Agreement.

"Available Project Funds" means: (i) the undisbursed City Funds; (ii) the undisbursed Lender Financing, if any; (iii) the undisbursed Equity and (iv) any other amounts deposited by Developer Parties pursuant to this Agreement.

"Certificate" means the Certificate of Completion of Construction or Rehabilitation described in Section 7.01.

"Change Order" means 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 Contract" is defined in Section 8.01(l).

"City Council" is defined in the Recitals.

"City Funds" is defined in Section 4.03(b).

"Closing Date" means the date of execution and delivery of this Agreement by all parties to this Agreement, which shall be deemed to be the date appearing in the first paragraph of this Agreement.

**"Collateral Assignment"** shall mean a collateral assignment of the Owner's and CHA CSC's respective interests in this Agreement, such collateral assignment to be made by Owner and/or CHA CSC to secure Lender Financing, in form and substance acceptable to the City in its sole discretion; provided, such collateral assignment cannot be exercised until the lender provides the certification required by Section 18.14 hereof and the assignee assumes all of the obligations of the Owner and CHA CSC under this Agreement.

**"Compliance Period"** means a period beginning on the date of issuance of the Certificate and continuing through the 10th anniversary of such date.

**"Contract"** is defined in Section 10.03.

**"Contractor"** is defined in Section 10.03.

**"Construction Contract"** means the construction contract to be entered into between Owner, the General Contractor and CHA CSC providing for construction of the Project.

**"Corporation Counsel"** means the City's Department of Law.

**"Developer Parties"** means, collectively, the Owner and CHA CSC; "Developer Party" means any one of the Developer Parties.

**"DOH"** means Department of Housing.

**"EDS"** means the City's Economic Disclosure Statement and Affidavit, on the City's then-current form, whether submitted in paper or via the City's online submission process.

**"Employer(s)"** is defined in Section 10.

**"Employment Plan"** is defined in Section 5.12.

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

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

**"Escrow"** means the construction escrow established pursuant to the Escrow Agreement.

**“Escrow Agreement”** means the Escrow Agreement establishing a construction escrow, to be entered into as of the date of this Agreement by the City, if applicable, the Title Company (or an affiliate of the Title Company), Owner, CHA CSC and Owner’s lender(s), in a form acceptable to the City.

**“Event of Default”** is defined in Section 15.

**“Facility”** is defined in the Recitals.

**“Financial Interest”** is defined in Section 2-156-010 of the Municipal Code.

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

**“Full-Time Equivalent Employee”** or **“FTE”** shall mean an employee of Developer Parties or an Affiliate (or, with respect to job shares or similar work arrangements, two such employees counted collectively as a single FTE) who is employed in a permanent position at least 35 hours per week at the Project during the applicable month, excluding (a) persons engaged as or employed by independent contractors, third party service providers or consultants and (b) persons employed or engaged by Developer Parties or by third parties in positions ancillary to Developer Parties’ operations at the Project including, without limitation, food service workers, security guards, cleaning personnel, or similar positions.

**“General Contractor”** means the general contractor(s) hired by Owner pursuant to Section 6.01.

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

**“Human Rights Ordinance”** is defined in Section 10.

**“In Balance”** is defined in Section 4.07.

**“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 TIF Fund established to pay Redevelopment Project Costs and obligations incurred in the payment thereof, as adjusted to reflect the amount of the TIF District Administration Fee.

**“Indemnitee”** and **“Indemnities”** are defined in Section 13.01.

**“Investor Member”** means [TBD], and its successors and assigns, or another entity acceptable to the City, in its sole discretion.

**"Lender Financing"** means funds borrowed by Owner from lenders and irrevocably available to pay for costs of the Project, in the amount set forth in Section 4.01.

**"MBE(s)"** means 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"** means the MBE/WBE Budget attached as Exhibit B, as described in Section 10.03.

**"MBE/WBE Program"** is defined in Section 10.03.

**"Municipal Code"** means the Municipal Code of the City of Chicago, as amended from time to time.

**"New Mortgage"** is defined in Article 16.

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

**"Permitted Liens"** means (i) mortgages against the Property and/or the Project recorded on or before the date of this Agreement and securing the Lender Financing, (ii) leases of portions of the Property entered into after the date hereof in Developer Parties' ordinary course of business, if any, and (iii) those matters set forth as Schedule B title exceptions in the Title Policy, 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.

**"Permitted Mortgage"** is defined in Article 16.

**"Planned Development"** means the Planned Development, if any, applicable to the Property.

**"Plans and Specifications"** means 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 Expenditures"** is defined in Section 4.05(a).

**"Prior Obligations"** means Incremental Taxes pledged or committed by the City to pay for the following projects: [LIST TO BE INSERTED PRIOR TO THE CLOSING DATE]

**"Project"** is defined in the Recitals.

**"Project Budget"** means the Project Budget attached as Exhibit B, showing the total cost of the Project by line item, furnished by Developer Parties to DPD and/or DOH, in accordance with Section 3.03.

**"Property"** is defined in the Recitals.

"Redevelopment Area" is defined in the Recitals.

"Redevelopment Plan" is defined in the Recitals.

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

"Requisition Form" means the document, in the form attached as Exhibit C, to be delivered by Developer to DPD and/or DOH pursuant to Section 4.04 of this Agreement.

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

"Senior Lender" shall mean [TBD], or such entity as may be acceptable to the Commissioner of DOH.

"Survey" means a plat of survey in the most recently revised form of ALTA/NSPS land title survey of the Property, meeting the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, effective February 23, 2021, dated within 75 days before the Closing Date, acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State of Illinois, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and updates thereof to reflect improvements to the Property in connection with the construction of the Facility and related improvements as required by the City or lender(s) providing Lender Financing).

"Sustainable Development Policy" shall mean the Sustainable Development Policy of the City as in effect on the Closing Date.

"Term of the Agreement" means the period of time commencing on the Closing Date and concluding at the end of the Compliance Period.

"TIF Adoption Ordinance" is defined in the Recitals.

"TIF District Administration Fee" means the fee described in Section 4.05(b).

"TIF Fund" means the special tax allocation fund created by the City in connection with the Redevelopment Area into which the Incremental Taxes will be deposited.

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

"TIF Ordinances" is defined in the Recitals.

"Title Company" means Greater Illinois Title Company.

**"Title Policy"** means a leasehold title insurance policy in the most recently revised ALTA or equivalent form, showing Owner as the insured, noting the recording of this Agreement as an encumbrance against the Property, and a subordination agreement in a form acceptable to the City 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.

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

**"WBE(s)"** means 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, Owner shall, pursuant to the Plans and Specifications and subject to the provisions of Section 18.17: (i) start construction no later than 180 days after the Closing Date; and (ii) complete construction and conduct business operations in the Facility no later than 22 months after the Closing Date.

**3.02 Scope Drawings and Plans and Specifications.** Owner has delivered the Scope Drawings and Plans and Specifications to DPD and/or DOH and DPD and/or DOH have approved same. After such initial approval, Owner shall submit to DPD and/or DOH subsequent proposed changes to the Scope Drawings or Plans and Specifications as a Change Order pursuant to Section 3.04. The Scope Drawings and Plans and Specifications shall always conform to the Redevelopment Plan and all applicable federal, state, and local laws, ordinances and regulations. Owner 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.** Owner has furnished to DPD and/or DOH, and DPD and/or DOH have approved, a Project Budget showing total costs for the Project in an amount not less than [\$39,849,880]. Owner hereby certifies to the City that (a) the City Funds, together with Lender Financing and Equity described in Section 4.02, shall be sufficient to complete the Project; and (b) the Project Budget is true, correct, and complete in all material respects. Owner shall promptly deliver to DPD and/or DOH certified copies of any Change Orders with respect to the Project Budget for approval pursuant to Section 3.04.

**3.04 Change Orders.** Except as provided below in this Section 3.04, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to changes to the Project must be submitted by Developer Parties to DPD and/or DOH concurrently with the progress reports described in Section 3.07; provided, that any Change Order relating to any of the following must be submitted by Developer Parties to DPD and/or DOH for DPD and/or DOH's prior written approval: (a) a reduction in the gross or net square footage of the Project by five percent (5%) or more (either individually or cumulatively); (b) a change in the use of the Project to a use other than as described in Recital D to this Agreement; (c) a delay in the completion of the Project by six (6) months or more; or (d) Change Orders resulting in an aggregate increase to the Project Budget for the Project of ten percent (10%) or more. Developer

Parties shall not authorize or permit the performance of any work relating to any Change Order or the furnishing of materials in connection therewith before Developer receives DPD and/or DOH's written approval (to the extent City prior approval is required pursuant to the terms of this Agreement). 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 agreed to provide under this Agreement or provide any other additional assistance to Developer Parties. Notwithstanding anything to the contrary in this Section 3.04, Change Orders other than those set forth above do not require DPD and/or DOH's prior written approval as set forth in this Section 3.04, but DPD and/or DOH shall be notified in writing of all such Change Orders within 10 business days after the execution of such Change Order and Developer Parties, in connection with such notice or at any regularly occurring draw reviewing meeting, shall identify to DPD and/or DOH the source of funding therefor.

3.05 DPD and/or DOH Approval. Any approval granted by DPD and/or DOH of the Scope Drawings, Plans and Specifications and the Change Orders is for the purposes of this Agreement only and does not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval, nor does any approval by DPD and/or DOH pursuant to this Agreement constitute approval of the quality, structural soundness or safety of the Property or the Project.

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

3.07 Progress Reports and Survey Updates. After the Closing Date, Owner shall provide DPD and/or DOH with written monthly progress reports detailing the status of the Project, including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring DPD and/or DOH's written approval pursuant to Section 3.04). Upon completion, Owner shall provide an updated Survey to DPD and/or DOH if requested by DPD and/or DOH or any lender providing Lender Financing, reflecting improvements made to the Property.

3.08 Inspecting Agent or Architect. An independent agent or architect (other than Owner's architect) approved by DPD and/or DOH shall be selected to act as the inspecting agent or architect, at Owner's expense, for the Project; provided, the City approve the Senior Lender's architect or agent. The inspecting agent or architect shall perform periodic inspections with respect to the Project, providing certifications with respect to these inspections to DPD and/or DOH, before Owner requests disbursement for costs related to the Project under this Agreement or the Escrow Agreement, if any. If approved by the City, the inspecting agent or architect may be the same one being used in such role by a lender providing Lender Financing, provided that such agent or architect (a) is not also Developer Parties' agent or architect and (b) acknowledges in writing to the City that the City may rely on the findings of such agent or architect.

3.09 Barricades. Before starting any construction requiring barricades, Owner shall install a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all applicable federal, state or City laws, ordinances, and regulations. DPD and/or DOH retain the right to approve the maintenance, appearance, color scheme, painting, nature, type, content, and design of all barricades (other than the name and logo of the Project).

3.10 Signs and Public Relations. Owner 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 Developer, the Property and the Project in the City's promotional literature and communications.

3.11 Utility Connections. Owner 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 Developer Parties first complies with all City requirements governing such connections, including the payment of customary fees and costs related to such connections.

3.12 Permit Fees. In connection with the Project, Owner 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 [\$39,849,880] to be applied in the manner stated in the Project Budget and funded from the sources identified in Exhibit E.

The payment of City Funds, including the timing of payment, is subject to the terms and conditions of this Agreement, including but not limited to Section 4.03 and Section 5.

4.02 Developer Parties Funds. Equity and/or Lender Financing shall be used to pay all Project costs, including but not limited to Redevelopment Project costs and costs of TIF-Funded Improvements.

#### 4.03 City Funds.

(a) Uses of City Funds. City Funds may only be used to pay directly or reimburse Developer Parties for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs. Exhibit B sets forth, by line item, the TIF-Funded Improvements for the Project, and the maximum amount of costs that may be paid by or reimbursed from City Funds for each line item in Exhibit B (subject to Sections 4.03(b) and 4.05(b)), contingent upon the City receiving documentation satisfactory in form and substance to DPD and/or DOH evidencing such cost and its eligibility as a Redevelopment Project Cost.

(b) Sources of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Section 5, the City hereby agrees to provide City

funds from the sources and in the amounts described directly below (the "City Funds") to pay for or reimburse Developer Parties for the costs of the TIF-Funded Improvements:

<u>Source of City Funds</u>	<u>Maximum Amount</u>
Incremental Taxes	\$ 10,000,000

provided, however, that the total amount of City Funds expended for TIF-Funded Improvements shall be an amount not to exceed \$10,000,000; and provided further, that the City Funds to be derived from Incremental Taxes shall be available to pay costs related to TIF-Funded Improvements and allocated by the City for that purpose only so long as the amount of the Incremental Taxes deposited into the TIF Fund shall be sufficient to pay for such costs; and

Developer Parties acknowledge and agree that the City's obligation to pay for TIF-Funded Improvements up to a maximum of \$10,000,000 is contingent upon the fulfillment of the conditions set forth above. If such conditions are not fulfilled, the amount of Equity to be contributed by Developer Parties pursuant to Section 4.01 shall increase proportionately.

(c) City Funds. Subject to the conditions and terms of this Agreement, including but not limited to this Section 4.03, Section 4.07 and Section 5 hereof, the City shall disburse the City Funds in three installments as follows:

(i) \$2,500,000 of the City Funds upon completion of twenty-five percent of the construction of the Project (based on the amount of expenditures incurred in relation to the Project Budget); and

(ii) \$2,500,000 of the City Funds upon completion of fifty percent of the construction of the Project (based on the amount of expenditures incurred in relation to the Project Budget); and

(iii) \$2,500,000 of the City Funds upon completion of seventy-five percent of the construction of the Project (based on the amount of expenditures incurred in relation to the Project Budget); and

(iv) \$2,500,000 of the City Funds upon the issuance of the Certificate.

The Developer Parties hereby appoint the Owner as the agent for all the Developer Parties for the purpose of executing Requisition Forms and other certifications required to be delivered to the City pursuant to this Agreement and providing support documentation in connection with requests for disbursement of City Funds hereunder.

The City and Developer Parties acknowledge that the proceeds of the loan from the Senior Lender referenced in Section 4.01 above will be used to bridge the City Funds and that certain installments of the City Funds will be applied to the partial repayment of the foregoing senior loan. CHA CSC, as the recipient of the City Funds and as lender thereof to Owner, and Owner, as the borrower of such City Funds from CHA CSC, hereby direct and agree that the City shall disburse the amounts to be paid by the City pursuant to Section 4.03(c)(iii)-(iv) directly to a subaccount

established pursuant to the Escrow Agreement for the partial repayment of the loan from Senior Lender. Notwithstanding the foregoing, the disbursement of City Funds pursuant to Section 4.03(c)(iv) may be remitted directly to Senior Lender upon receipt by the City of a letter of direction to that effect from the Developer Parties.

4.04 Requisition Form. Developer Parties shall provide DPD and/or DOH with a Requisition Form for reimbursement of TIF-Funded Improvements, along with the documentation described in the Requisition Form. Developer Parties shall meet with DPD and/or DOH at the request of DPD and/or DOH to discuss any Requisition Form previously delivered.

4.05 Treatment of Prior Expenditures and Subsequent Disbursements.

(a) Effect of Prior Expenditures on Equity or Lender Financing demonstrated before the Closing Date. If Developer Parties incur and pays Project expenses before the Closing Date and wants these expenses to reduce the amount of Equity or Lender Financing Developer Parties are required to demonstrate before the Closing Date, then Developer Parties shall provide documentation of these expenses satisfactory to DPD and/or DOH. Any such expenses reviewed and approved in writing by DPD and/or DOH, in its sole discretion, shall be referred to as "Prior Expenditures". Prior Expenditures made for TIF-Funded Improvements may be reimbursed to Developer Parties under the terms of this Agreement. Prior Expenditures made for items other than TIF-Funded Improvements shall not be reimbursed to Developer Parties but shall reduce the amount of Equity and/or Lender Financing Developer Parties are required to contribute under Section 4.01.

(b) TIF District Administration Fee. Annually, the City may allocate from the TIF Fund an amount (the "TIF District Administration Fee") not to exceed five percent (5%) of the Incremental Taxes to pay costs the City incurred to administer and monitor the Redevelopment Area, including the Project. Such fee shall be in addition to and shall not be deducted from or considered a part of the City Funds, and the City shall have the right to receive such funds before any City Funds are paid under this Agreement.

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

4.06 Cost Overruns. If the aggregate cost of the TIF-Funded Improvements exceeds City Funds available pursuant to Section 4.03, or if the cost of completing the Project exceeds the Project Budget, Owner shall be solely responsible for such excess cost, and Developer Parties 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. Before each disbursement of City Funds, Developer Parties shall submit documentation regarding the applicable expenditures to DPD and/or DOH, which shall be satisfactory to DPD and/or DOH in its sole discretion. Developer Parties' delivery of any request for disbursement of City Funds shall, in addition to the items expressly set forth in

such request, constitute Developer Parties' certification to the City, as of the date of such request for disbursement, that:

(a) the total amount of the disbursement request represents the actual cost of the acquisition of the Property or the actual amount payable to (or paid to) the General Contractor and/or subcontractors who have performed work on the Project, and/or their payees and/or the architect for the inspections performed in monitoring the construction of the Project;

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

(c) Developer Parties have approved all work and materials for the current disbursement request 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 Developer Parties are in compliance with all covenants contained in this Agreement;

(e) Developer Parties have 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;

(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; and

(g) the Project is In Balance. The Project shall be deemed to be in balance ("In Balance") only if the total of the Available Project Funds equals or exceeds the aggregate of the amount necessary to pay all unpaid Project costs incurred or to be incurred in the completion of the Project. Developer hereby agrees that, if the Project is not In Balance, Developer Parties shall, within 10 days after a written request by the City, deposit with the escrow agent or will make available (in a manner acceptable to the City), cash in an amount that will place the Project In Balance, which deposit shall first be exhausted before any further disbursement of the City Funds shall be made.

The City shall have the right, in its discretion, to require Developer Parties 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 Developer Parties. In addition, Developer Parties shall have satisfied all other preconditions of disbursement of City Funds for each disbursement, including but not limited to requirements set forth in the TIF Ordinances, this Agreement and/or the Escrow Agreement.

4.08 Conditional Grant. The City Funds are being granted on a conditional basis, subject to Developer Parties' compliance with the provisions of this Agreement and are subject to being reimbursed as provided in Section 15.02.

## SECTION 5. CONDITIONS PRECEDENT

Developer has complied with the following conditions to the City's satisfaction on or before the Closing Date:

5.01 Project Budget. Developer Parties have submitted to DPD and/or DOH, and DPD and/or DOH have approved, a Project Budget in accordance with the provisions of Section 3.03.

5.02 Scope Drawings and Plans and Specifications. Owner has submitted to DPD and/or DOH, and DPD and/or DOH have approved, the Scope Drawings and Plans and Specifications in accordance with the provisions of Section 3.02.

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

5.04 Financing. Owner has furnished proof reasonably acceptable to the City that Developer Parties have Equity and Lender Financing in the amounts set forth in Section 4.01 to complete the Project and satisfy its obligations under this Agreement. If such funds include Lender Financing, Developer Parties have furnished proof as of the Closing Date that the proceeds of the Lender Financing (a) are available for Developer Parties to draw upon as needed and (b) are sufficient, along with the Equity and/or other sources set forth in Section 4.01, to complete the Project. If the City is not a party to the Escrow Agreement, then Developer Parties have delivered to DPD and/or DOH a copy of the Escrow Agreement. Any liens against the Property existing at the Closing Date have been subordinated to certain encumbrances of the City set forth in this Agreement pursuant to a subordination agreement, in a form acceptable to the City, executed on or before the Closing Date, which is to be recorded, at Owner's expense, with the Cook County Clerk's Office. The City agrees to a Collateral Assignment in connection with Lender Financing, if required by a lender providing such Lender Financing.

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

5.06 Evidence of Clean Title. Developer Parties, at its own expense, have provided the City with searches as indicated in the chart below under Developer Parties' name and Developer Parties' trade names showing no liens against Developer Parties, the Property or any fixtures now or hereafter affixed to the Property, except for the Permitted Liens:

<b>Jurisdiction</b>	<b>Searches</b>
Secretary of State	UCC, Federal tax
Cook County Clerk's Office	UCC, Fixtures, Federal tax, State tax, Memoranda of judgments
U.S. District Court, Northern District - Illinois	Pending suits and judgments
Clerk of Circuit Court, Cook County	Pending suits and judgments

5.07 Surveys. Owner has furnished the City with a copy of the Survey.

5.08 Insurance. Developer Parties, at its own expense, have insured the Property in accordance with Section 12, and have delivered certificates required pursuant to Section 12 evidencing the required coverages to DPD and/or DOH.

5.09 Opinion of Developer Parties' Counsel. On the Closing Date, Developer Parties have furnished the City with an opinion of counsel in form and substance acceptable to Corporation Counsel. If Developer Parties have engaged special counsel in connection with the Project, and such special counsel is unwilling or unable to give some of the opinions required by the Corporation Counsel, such opinions must be obtained by Developer Parties from its general corporate counsel or such other counsel acceptable to the Corporation Counsel.

5.10 Evidence of Prior Expenditures. Developer Parties have provided evidence satisfactory to DPD and/or DOH in its sole discretion of the Prior Expenditures, if any, in accordance with the provisions of Section 4.05(a).

5.11 Financial Statements. Developer Parties have provided Financial Statements to DPD and/or DOH for each of its most recent fiscal year and audited or unaudited interim financial statements.

5.12 Documentation: Employment Plan. Developer Parties have provided documentation to DPD and/or DOH, satisfactory in form and substance to DPD and/or DOH, with respect to current employment matters in connection with the construction or rehabilitation work on the Project, including the reports described in Section 8.07. At least thirty (30) days before the Closing Date, Developer Parties have met with the Workforce Solutions division of DPD and/or DOH to review employment opportunities with Developer Parties after construction or rehabilitation work on the Project is completed. On or before the Closing Date, Developer Parties have provided to DPD and/or DOH, and DPD and/or DOH have approved, the Employment Plan for the Project (the "Employment Plan"). The Employment Plan includes, without limitation, Developer Parties' estimates of future job openings, titles, position descriptions, qualifications, recruiting, training, placement, and such other information as DPD and/or DOH have requested relating to the Project.

5.13 Environmental. Developer Parties have provided DPD and/or DOH with copies of that certain phase I environmental audit completed with respect to the Property and any phase II environmental audit with respect to the Property required by the City. Developer Parties have provided the City with a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits.

**5.14 Corporate Documents; Economic Disclosure Statement.** Developer Parties have provided a copy of its articles or certificate of incorporation or organization containing the original certification of the Secretary of State; certificates of good standing from the Secretary of State of its state of incorporation or organization and all other states in which Developer Parties are qualified to do business; a secretary's certificate in such form and substance as the Corporation Counsel may require; bylaws or operating agreement; and such other organizational documentation as the City has requested.

Each of the Developer Parties has provided to the City an EDS, dated as of the Closing Date, which is incorporated by reference, and Developer Parties further will provide any other affidavits or certifications as may be required by federal, state, or local law in the award of public contracts, all of which affidavits or certifications are incorporated by reference. Notwithstanding acceptance by the City of the EDS, failure of the EDS to include all information required under the Municipal Code renders this Agreement voidable at the option of the City. Developer Parties and any other parties required by this Section 5.14 to complete an EDS must promptly update their EDS(s) on file with the City whenever any information or response provided in the EDS(s) is no longer complete and accurate, including changes in ownership and changes in disclosures and information pertaining to ineligibility to do business with the City under Chapter 1-23 of the Municipal Code, as such is required under Sec. 2-154-020, and failure to promptly provide the updated EDS(s) to the City will constitute an event of default under this Agreement.

## SECTION 6. AGREEMENTS WITH CONTRACTORS

**6.01 Bid Requirement for General Contractor and Subcontractors.** (a) Except as set forth in Section 6.01(b) below, before entering into an agreement with a General Contractor or any subcontractor for construction of the Project, Developer Parties shall solicit, or shall cause the General Contractor to solicit, bids from qualified subcontractors eligible to do business with, and having an office located in, the City of Chicago, and if requested by DPD and/or DOH shall submit all bids received to DPD and/or DOH for its inspection and written approval. (i) For the TIF-Funded Improvements, Developer shall select the General Contractor (or shall cause the General Contractor to select the subcontractor) submitting the lowest responsible bid who can complete the Project in a timely manner. If Developer selects a General Contractor (or the General Contractor selects any subcontractor) submitting other than the lowest responsible bid for the TIF-Funded Improvements, the difference between the lowest responsible bid and the bid selected may not be paid out of City Funds. (ii) For Project work other than the TIF-Funded Improvements, if Developer selects a General Contractor (or the General Contractor selects any subcontractor) who has not submitted the lowest responsible bid, the difference between the lowest responsible bid and the higher bid selected shall be subtracted from the actual total Project costs for purposes of the calculation of the amount of City Funds to be contributed to the Project pursuant to Section 4.03(b). Developer Parties shall submit copies of the Construction Contract to DPD and/or DOH in accordance with Section 6.02 below. Copies of all subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD and/or DOH within five (5) business days after they are signed. Developer Parties shall ensure that the General Contractor shall not (and shall cause the General Contractor to ensure that the subcontractors shall not) begin work on the Project until the Plans and Specifications have been approved by DPD and/or DOH and all requisite permits have been obtained.

**6.02 Construction Contract.** Before executing the Construction Contract, Developer Parties shall deliver to DPD and/or DOH a copy of the proposed Construction Contract with the

General Contractor selected to handle the Project in accordance with Section 6.01 above, for DPD and/or DOH's prior written approval, which DPD and/or DOH shall grant or deny within ten (10) business days after delivery of the proposed Construction Contract. Within ten (10) business days after the Construction Contract is executed by all parties thereto, Developer shall deliver to DPD and/or DOH and Corporation Counsel a certified copy of such contract together with any modifications, amendments, or supplements thereto.

**6.03 Performance and Payment Bonds.** Before starting construction of any portion of the Project, Developer Parties shall require that the General Contractor be bonded for its performance and payment by sureties having an AA rating or better using American Institute of Architect's Form No. A311 or its equivalent. Before starting construction of any portion of the Project which includes work on the public way, Developer shall require that the General Contractor be bonded for its payment by sureties having an AA rating or better using a bond in the form acceptable to the City. The City shall be named as obligee or co-obligee on any such bonds.

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

**6.05 Other Provisions.** In addition to the requirements of this Section 6, the Construction Contract and each contract with any subcontractor shall contain provisions required pursuant to Section 3.04 (Change Orders), Section 8.09 (Prevailing Wage), Section 10.01(e) (Employment Opportunity), Section 10.02 (City Resident Employment Requirement), Section 10.03 (MBE/WBE Requirements, as applicable), Section 12 (Insurance) and Section 14.01 (Books and Records). Copies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD and/or DOH within five (5) business days of the execution thereof.

## SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION

**7.01 Certificate of Completion of Construction or Rehabilitation.** Upon completion of the construction and/or rehabilitation of the Project in accordance with the terms of this Agreement, and upon Developer Parties' written request, DPD and/or DOH shall issue to Developer a Certificate in recordable form certifying that Developer Parties have fulfilled its obligation to complete the construction and/or rehabilitation of the Project in accordance with the terms of this Agreement. DPD and/or DOH shall respond to Developer Parties' 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 Developer to obtain the Certificate. Developer Parties may resubmit a written request for a Certificate upon completion of such measures.

The Developer Parties acknowledge and understand that the City will not issue the Certificate and pay out City Funds in connection with the Project, until the following conditions have been met:

- Evidence that Developer Parties have incurred TIF-eligible expenses in an amount equal to, or greater than, the total amount of City Funds for the Project (up to \$10,000,000); and

- Receipt of a Certificate of Occupancy for the Project or other evidence acceptable to DPD and/or DOH that the Developer has complied with building permit requirements for the Project; and
- The buildings are being marketed for lease to tenants pursuant to the requirements set forth in the affordability provisions of the regulatory agreement executed by the Developer in connection with the Low-Income Housing Tax Credits.
- Evidence acceptable to DPD and/or DOH in the form of a closeout letter from DPD and/or DOH's Compliance and Monitoring division stating that the Developer Parties are in complete compliance with all City Requirements (MBE/WBE, City Residency, and Prevailing Wage); and
- Evidence acceptable to DPD and/or DOH that the Project has complied with the Sustainable Development Policy; and
- There exists neither an Event of Default which is continuing nor a condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default.

**7.02 Effect of Issuance of Certificate: Continuing Obligations.** The Certificate relates only to the construction and/or rehabilitation of the Project, and upon its issuance, the City will certify that the terms of the Agreement specifically related to Developer's obligation to complete such activities have been satisfied. After the Certificate is issued, however, all executory terms and conditions of this Agreement and all representations and covenants contained in this Agreement 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 Section 8.02 (Covenant to Redevelop), Section 8.06 (Jobs Covenant; Operating Covenant), Section 8.19 (Real Estate Provisions) and Section 8.20 (Annual Compliance Report) as covenants that run with the leasehold estate 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 when the Certificate is issued, 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 Certificate is issued shall be binding only upon Developer Parties or a permitted assignee of Developer Parties who, pursuant to Section 18.14 (Assignment) of this Agreement, has contracted to take an assignment of Developer's rights under this Agreement and assume Developer Parties' liabilities under this Agreement.

**7.03 Failure to Complete.** If Developer Parties fail 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 under this Agreement;

(b) the right (but not the obligation) to complete those TIF-Funded Improvements that are public improvements and to pay for the costs of TIF-Funded Improvements (including interest costs) out of City Funds or other City monies. If the aggregate cost of completing the TIF-Funded

Improvements exceeds the amount of City Funds available pursuant to Section 4.03, Developer Parties 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 Developer Parties.

**7.04 Notice of Expiration of Term of Agreement.** When the Term of the Agreement expires, at Developer's written request DPD and/or DOH shall provide Developer with a written notice in recordable form stating that the Term of the Agreement has expired.

## **SECTION 8. COVENANTS/REPRESENTATIONS/WARRANTIES OF DEVELOPER PARTIES.**

**8.01 General.** The representations and warranties provided by Developer Parties under this Agreement are material conditions precedent to the City's obligations under this Agreement. CHA CSC and Owner shall be deemed to be making the representations, warranties, and covenants as to themselves only, and not the other. Each of Developer Parties (as to themselves and not the other) represent, warrant, and covenant, as of the date of this Agreement and as of the date of each disbursement of City Funds hereunder and throughout the Term of the Agreement, that:

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

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

(c) CHA CSC is a not-for-profit corporation duly incorporated or organized, validly existing, qualified to do business in its state of incorporation or organization and in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

(d) CHA CSC has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(e) the execution, delivery and performance by each of the Developer Parties of this Agreement has been duly authorized by all necessary action, and does not and will not violate its certificate or articles of incorporation or organization, bylaws or operating 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 Developer Parties is now a party or by which Developer Parties is now or may become bound;

(f) unless otherwise permitted or not prohibited pursuant to or under the terms of this Agreement, Owner shall acquire and shall maintain good, indefeasible, and merchantable leasehold title to the Property (and fee simple to all improvements thereon) free and clear of all liens (except for the Permitted Liens, Lender Financing as disclosed in the Project Budget and non-governmental charges that Developer is contesting in good faith pursuant to Section 8.15)

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

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

(i) each Developer Party 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;

(j) each Developer Party 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 Developer is a party or by which Developer is bound;

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

(l) before the Certificate is issued, each Developer Party shall not do any of the following without the prior written consent of DPD and/or DOH: (1) be a party to any merger, liquidation or consolidation; (2) sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or any portion of the Property (including but not limited to any fixtures or equipment now or hereafter attached to the Property) except in the ordinary course of business; (3) enter into any transaction outside the ordinary course of each Developer Party'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 each Developer Party's financial condition;

(m) each Developer Party has not incurred, and, before the Certificate is issued, shall not, without the prior written consent of the Commissioner of DPD and/or DOH, allow the existence of any liens against the Property (or improvements thereon) other than the Permitted Liens; or incur any indebtedness, secured or to be secured by the Property (or improvements thereon) or any fixtures now or hereafter attached to the Property, except Lender Financing disclosed in the Project Budget; and

(n) 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 Developer Parties in violation of Chapter 2-156-120 of the Municipal Code;

(o) neither the Developer Parties nor any affiliate of Developer Parties 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.

(p) Developer Parties understand that (i) the City Funds are limited obligations of the City, payable solely from moneys on deposit in the account of the TIF Fund designated for the Project; (ii) the City Funds do not constitute indebtedness of the City within the meaning of any constitutional or statutory provision or limitation; (iii) Developer Parties will have no right to compel the exercise of any taxing power of the City for payment of the City Funds; and (iv) the City Funds do not and will not represent or constitute a general obligation or a pledge of the faith and credit of the City, the State of Illinois or any political subdivision thereof;

(q) Developer Parties have sufficient knowledge and experience in financial and business matters, including municipal projects and revenues of the kind represented by the City Funds, and has been supplied with access to information, including a list of City's Prior Obligations, to be able to evaluate the risks associated with the receipt of City Funds;

(r) Developer Parties understand that there is no assurance as to the amount or timing of receipt of City Funds, and that the amounts of City Funds actually received by such party may be substantially less than the maximum amounts set forth in Section 4.03(b);

(s) Developer Parties understand it may not sell, assign, pledge or otherwise transfer its interest in this Agreement or City Funds in whole or in part except in accordance with the terms of Section 18.14 (Assignment) of this Agreement, and, to the fullest extent permitted by law, agrees to indemnify the City for any losses, claims, damages or expenses relating to or based upon any sale, assignment, pledge or transfer of City Funds in violation of this Agreement; and

(t) Developer Parties acknowledge that with respect to City Funds, the City has no obligation to provide any continuing disclosure to the Electronic Municipal Market Access System maintained by the Municipal Securities Rulemaking Board, to any holder of a note relating to City Funds or any other person under Rule 15c2-12 of the Commission promulgated under the Securities Exchange Act of 1934 or otherwise and shall have no liability with respect thereto.

**8.02 Covenant to Redevelop.** Upon DPD and/or DOH's approval of the Project Budget, the Scope Drawings and Plans and Specifications as provided in Sections 3.02 and 3.03, and Developer Parties' receipt of all required building permits and governmental approvals, Developer shall redevelop the Property in accordance with this Agreement and all its Exhibits, the TIF Ordinances, the Scope Drawings, Plans and Specifications, Project Budget and all amendments to such documents, and all federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project, the Property and/or Developer Parties. The covenants set forth in this Section shall run with the leasehold estate and be binding upon any transferee but shall be deemed satisfied when the City issues the Certificate.

8.03 Redevelopment Plan. Developer Parties represent that the Project is and shall be in compliance with all of the terms of the Redevelopment Plan, which is hereby incorporated by reference into this Agreement.

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

8.05 Other Bonds. Developer Parties 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; provided, however, that any such amendments shall not have a material adverse effect on Developer Parties or the Project provided, further, that the proceeds of any bonds issued on a tax-exempt basis cannot be used as a source of City Funds. Developer Parties shall, at Developer Parties' 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 to such bonds.

8.06 Jobs Covenant; Operating Covenant. Not less than 2 FTE permanent jobs shall be retained or created by Developer Parties at the Facilities through the Term of the Agreement, which may be the employees of the Owners' property management company. An additional 8 FTE permanent jobs are anticipated upon commencement of operations of the commercial space located at the Project. Approximately 250 full time equivalent construction related jobs will be created by the developer during the construction period. Developer agrees to report the number of jobs, whether FTE or otherwise, projected to be created by the Project at the Closing Date and also to report the number of jobs, whether FTE or otherwise on an annual basis in a job report detailing the following information for each employee:

- Employee status as full-time or part-time
- ZIP code for their primary residency
- Total employment tenure in months
- Wages above or below the "Living Wage" rate as defined for that year

Developer hereby covenants and agrees to maintain its operations within the City of Chicago at the Facilities through the Term of the Agreement.

The covenants set forth in this Section shall run with the leasehold estate and be binding upon any transferee.

8.07 Employment Opportunity; Progress Reports. Developer Parties covenant and agree 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. Developer Parties shall deliver to the City written progress reports detailing compliance with the requirements of Sections 8.09, 10.02 and 10.03 of this Agreement. Such reports shall be delivered to the City when the Project is 25%, 50%, 75% and 100% completed (based on the amount of expenditures incurred

in relation to the Project Budget). If any such reports indicate a shortfall in compliance, Owner shall also deliver a plan to DPD and/or DOH which shall outline, to DPD and/or DOH's satisfaction, how Owner shall correct any shortfall.

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

**8.09 Prevailing Wage.** Unless compliance with the Davis Bacon Act (40 U.S.C. Section 3141 et seq.) is required, Developer Parties covenant and agree 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, Developer Parties shall provide the City with copies of all such contracts entered into by Developer Parties or the General Contractor to evidence compliance with this Section 8.09.

**8.10 Arms-Length Transactions.** Unless DPD and/or DOH has given its prior written consent, no Affiliate of Developer Parties 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. Developer Parties shall provide information with respect to any entity to receive City Funds directly or indirectly (whether through payment to the Affiliate by Developer Parties and reimbursement to Developer Parties for such costs using City Funds, or otherwise), upon DPD and/or DOH's request, before any such disbursement.

**8.11 Conflict of Interest.** Pursuant to Section 5/11-74.4-4(n) of the Act, each of the Developer Parties (as to themselves only and not the other) represent, warrant and covenant that, to the best of its knowledge, no member, official, or employee of the City, or of any commission or committee exercising authority over the Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the City or Developer with respect thereto, owns or controls, has owned or controlled or will own or control any interest, and no such person shall represent any person, as agent or otherwise, who owns or controls, has owned or controlled, or will own or control any interest, direct or indirect, in Developer's business, the Property or any other property in the Redevelopment Area.

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

**8.13 Financial Statements.** Owner shall obtain and provide to DPD and/or DOH Financial Statements for Owner 's most recent fiscal year and each fiscal year thereafter for the Term of the Agreement. In addition, Owner shall submit unaudited financial statements as soon as reasonably practical following the close of each fiscal year and for such other periods as DPD and/or DOH may request.

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

**8.15 Non-Governmental Charges.** (a) **Payment of Non-Governmental Charges.** Except for the Permitted Liens, Developer Parties agree 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, Developer Parties 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. Developer Parties shall furnish to DPD and/or DOH, within thirty (30) days of DPD and/or DOH's request, official receipts from the appropriate entity, or other proof satisfactory to DPD and/or DOH, evidencing payment of the Non-Governmental Charge in question.

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

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

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

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

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

**8.18 Recording and Filing.** Owner shall cause this Agreement, certain exhibits (as specified by Corporation Counsel) and all amendments and supplements to this Agreement to be recorded and filed, at Owner's expense, against the Property on the date hereof in the Cook County Clerk's Office. Either this Agreement shall be recorded prior to any mortgage

made in connection with Lender Financing or, if this Agreement is not recorded first, a subordination agreement must to be prepared, executed and recorded. Owner shall pay all fees and charges incurred in connection with any such recording. Upon recording, Owner shall immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

#### 8.19 Real Estate Provisions.

##### (a) Governmental Charges.

(i) Payment of Governmental Charges. Subject to subsection (ii) below, Developer Parties agree to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon Developer Parties, the Property or the Project, or become due and payable, and which create or may create a lien upon Developer Parties or all or any portion of the Property or the Project. "Governmental Charge" means 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 Developer Parties, the Property or the Project including but not limited to real estate taxes.

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

(i) Developer Parties shall demonstrate to DPD and/or DOH's satisfaction that legal proceedings instituted by 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 before the final determination of such proceedings; and/or

(ii) Developer Parties shall furnish a good and sufficient bond or other security satisfactory to DPD and/or DOH in such form and amounts as DPD and/or DOH 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 Parties' Failure To Pay Or Discharge Lien. If Developer Parties fail to pay any Governmental Charge or to obtain discharge of the same, then Developer Parties shall advise DPD and/or DOH in writing. At that time DPD and/or DOH in its sole discretion may, but shall not be obligated to, make all or any part of such payment or obtain such discharge and take any other related action which DPD and/or DOH deem advisable. By taking any action under this paragraph, DPD and/or DOH shall not waive or release any obligation or liability of Developer Parties under this Agreement. The Developer shall promptly reimburse DPD and/or DOH for all sums, if any, DPD and/or DOH pay under this paragraph and expenses, if any, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto. Notwithstanding anything contained in this paragraph to the contrary, this paragraph shall not be construed to obligate the City to pay any Governmental Charge. If Developer Parties fail to pay any Governmental Charge, the City, in its sole discretion, may require Developer Parties to submit to the City audited Financial Statements at Developer Parties' own expense.

(c) Real Estate Taxes.

(i) Real Estate Tax Exemption. With respect to the leasehold estate or the Project, neither of the Developer Parties nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to each Developer Party 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 except for the units subject to the Consolidated Cooperation Agreement with the City and except for participating in the Cook County Affordable Housing Special Assessment Program, the public housing abatement under 35 ILCS 200/18-177, and the LIHTC Valuation Program or obtaining any exemption for which the City has provided prior consent.

(ii) Covenants Running with the Leasehold Estate. The parties agree that the restrictions contained in this Section 8.19(c) are covenants running with the leasehold estate and this Agreement shall be recorded by Developer Parties as a memorandum thereof, at Developer Parties' expense, with the Cook County Clerk's Office on the Closing Date. These restrictions shall be binding upon Developer Parties 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. Developer Parties agree that any sale, lease, conveyance, or transfer of title to all or any portion of the Property or Redevelopment Area from and after the date hereof shall be made explicitly subject to such covenants and restrictions. Notwithstanding anything contained in this Section 8.19(c) to the contrary, the City, in its sole discretion and by its sole action, without the joinder or concurrence of Developer Parties, its successors or assigns, may waive and terminate Developer Parties' covenants and agreements set forth in this Section 8.19(c).

(d) Notification to the Cook County Assessor of Change in Use or Ownership. If required under 35 ILCS 200/15-20 due to a change in use or ownership of the Property, within 90 days after the Closing Date, Developer Parties shall complete a letter of notification, in accordance with 35 ILCS 200/15-20, notifying the Cook County Assessor of such change in use or ownership. After delivery of the notification, Developer Parties shall forward a copy of the return receipt to DPD and/or DOH, with a copy to the City's Corporation Counsel's office.

8.20 Annual Compliance Report. Starting when the Certificate is issued and continuing throughout the Term of the Agreement, Developer shall submit to DPD and/or DOH the Annual Compliance Report within 30 days after the end of the calendar year to which the Annual Compliance Report relates.

8.21 Inspector General. It is the duty of Developer Parties and the duty of any bidder, proposer, contractor, subcontractor, and every applicant for certification of eligibility for a City contract or program, and all of Developer Parties' officers, directors, agents, partners, and employees and any such bidder, proposer, contractor, subcontractor or such applicant, to cooperate with the Inspector General in any investigation or hearing undertaken pursuant to Chapter 2-56 of the Municipal Code. Developer Parties represent that it understands and will abide by all provisions of Chapter 2-56 of the Municipal Code and that it will inform subcontractors of this provision and require their compliance.

8.22 Intentionally omitted

8.23. FOIA and Local Records Act Compliance.

(a) FOIA. Developer Parties acknowledge that the City is subject to the Illinois Freedom of Information Act, 5 ILCS 140/1 et. seq., as amended ("FOIA"). The FOIA requires the City to produce records (very broadly defined in FOIA) in response to a FOIA request in a very short period of time, unless the records requested are exempt under the FOIA. If Developer receives a request from the City to produce records within the scope of FOIA, then Developer Parties covenant to comply with such request within 48 hours of the date of such request. Failure by Developer Parties to timely comply with such request shall be an Event of Default.

(b) Exempt Information. Documents that Developer Parties submit to the City as part of the Annual Compliance Report or otherwise during the Term of the Agreement that contain trade secrets and commercial or financial information may be exempt if disclosure would result in competitive harm. However, for documents submitted by Developer Parties to be treated as a trade secret or information that would cause competitive harm, FOIA requires that Developer Parties mark any such documents as "proprietary, privileged or confidential." If Developer Parties mark a document as "proprietary, privileged and confidential", then DPD and/or DOH will evaluate whether such document may be withheld under the FOIA. DPD and/or DOH, in its discretion, will determine whether a document will be exempted from disclosure, and that determination is subject to review by the Illinois Attorney General's Office and/or the courts.

(c) Local Records Act. Developer Parties acknowledge that the City is subject to the Local Records Act, 50 ILCS 205/1 et. seq, as amended (the "Local Records Act"). The Local Records Act provides that public records may only be disposed of as provided in the Local Records Act. If requested by the City, Developer Parties covenant to use its best efforts consistently applied to assist the City in its compliance with the Local Records Act.

8.24 Survival of Covenants. All warranties, representations, covenants and agreements of Developer Parties contain in this Section 8 and elsewhere in this Agreement shall be true, accurate and complete at the time of Developer Parties' execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties to this Agreement and,

except as provided in Section 7 when the Certificate is issued, shall be in effect throughout the Term of the Agreement.

8.25 In connection with that certain Indictment filed on June 13, 2024 in the Superior Court of New Jersey Law Division, Docket No. 24-06-00111-S (the "Indictment"), each of the Developer Parties represents, warrants, and covenants, as of the date of this Agreement and as of the date of each disbursement of City Funds hereunder and throughout the Term of the Agreement, that none of the named defendants in the Indictment (i) is or will be an officer, director, manager, managing member, partner, general partner or limited partner of any Developer Party; (ii) owns or will own, directly or indirectly through one or more intermediate ownership entities, any ownership interest in any Developer Party; or (iii) controls or will control, directly or indirectly through one or more intermediate ownership entities, the day-to-day management of any Developer Party (the foregoing (i)-(iii) shall be hereinafter referred to as the "Restrictions"). Such Restrictions will no longer apply to a named defendant if the Indictment and any charges related to the Indictment are no longer pending and either (a) such defendant has not been convicted of any of the crimes alleged in the Indictment or any charges related to the Indictment or (b) such defendant has been acquitted of the crimes alleged in the Indictment or any charges related to the Indictment. Any default under this Section 8.25 shall constitute an Event of Default without notice or opportunity to cure.

#### 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 under this Agreement.

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 to this Agreement and be in effect throughout the Term of the Agreement.

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

10.01 Employment Opportunity. Owner, 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 Owner operating on the Property (collectively, with Owner, the "Employers" and individually an "Employer") to agree, that for the Term of this Agreement with respect to Owner 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, subject to the cure rights under 15.03.

**10.02 City Resident Construction Worker Employment Requirement.** Owner 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 (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, Owner, 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.

Owner 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 in accordance with standards and procedures developed by the Chief Procurement Officer of the City.

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

Upon 2 business days prior written notice, Owner, the General Contractor and each subcontractor shall provide for the maintenance of adequate employee residency records to show that actual Chicago residents are employed on the Project. Each Employer shall maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

Weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) shall be submitted to the Commissioner of DPD and/or DOH 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.

Upon 2 business days prior written notice, Owner, the General Contractor and each subcontractor shall provide full access to their employment records to the Chief Procurement Officer, the Commissioner of DPD and/or DOH, the Superintendent of the Chicago Police Department, the Inspector General or any duly authorized representative of any of them. Owner, the General Contractor and each subcontractor shall maintain all relevant personnel data and records for a period of at least three (3) years after final acceptance of the work constituting the Project.

At the direction of DPD and/or DOH, affidavits and other supporting documentation will be required of Owner, 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 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 Owner 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 Owner 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 Owner, the General Contractor and/or the subcontractors to prosecution. Any

retainage to cover contract performance that may become due to Owner pursuant to Section 2-92-250 of the Municipal Code may be withheld by the City pending the Chief Procurement Officer's determination as to whether Owner 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.

Owner 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.** Owner 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 (the "Procurement Program"), and (ii) the Minority- and Women-Owned Business Enterprise Construction Program, Section 2-92-650 et seq., Municipal Code (the "Construction Program," and collectively with the Procurement Program, the "MBE/WBE Program"), and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this Section 10.03, during the course of the Project, at least the following percentages of the MBE/WBE Budget (as set forth in Exhibit B) shall be expended for contract participation by MBEs and by WBEs:

- (1) At least 26 percent by MBEs.
- (2) At least six percent by WBEs.

(b) For purposes of this Section 10.03 only, Owner (and any party to whom a contract is let by Owner in connection with the Project) shall be deemed a "contractor" and this Agreement (and any contract let by Owner 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, as applicable.

(c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code, Owner's MBE/WBE commitment may be achieved in part by Owner's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by Owner) 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 Owner 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 Owner's MBE/WBE commitment as described in this Section 10.03. In accordance with Section 2-92-730, Municipal Code, Owner

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

(d) Owner 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 Owner 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 Owner's compliance with this MBE/WBE commitment. Owner 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 Owner, on five Business Days' notice, to allow the City to review Owner'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, Owner 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, as applicable.

(f) Any reduction or waiver of Owner'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, as applicable.

(g) Before starting the Project, Owner shall be required to meet with the City's monitoring staff with regard to Owner'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, Owner 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, Owner 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 Owner is not complying with its obligations under this Section 10.03, shall, upon the delivery of written notice to Owner, 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 Owner to halt the Project, (2) withhold any further payment of any City Funds to Developer or the General Contractor, or (3) seek any other remedies against Owner available at law or in equity.

## SECTION 11. ENVIRONMENTAL MATTERS

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

Without limiting any other provisions hereof, Owner 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 Owner: (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 Owner, or any person directly or indirectly controlling, controlled by or under common control with Owner, 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 Owner), 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 Owner or any of its Affiliates under any Environmental Laws relating to the Property.

## SECTION 12. INSURANCE

Developer Parties must provide and maintain, at Developer Parties' 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) Before 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 \$1,000,000 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. Before the construction of any portion of the Project, Developer Parties 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 \$1,000,000 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 Parties must provide cause to be provided with respect to the operations that Contractors perform, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy must have limits of not less than \$2,000,000 per occurrence and \$6,000,000 in the aggregate for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

(v) All Risk /Builders Risk

When Developer Parties undertake any construction, including improvements, betterments, and/or repairs, Developer Parties 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, Developer Parties 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:

Developer Parties must furnish the City of Chicago, Department of Planning and Development, City Hall, Room 1000, 121 North LaSalle Street, Chicago, Illinois 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. Developer Parties must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached) or equivalent before 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 Parties is not a waiver by the City of any requirements for Developer Parties to obtain and maintain the specific

coverages. Developer Parties shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Developer Parties 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 Parties and Contractors.

Developer Parties hereby waive and agree 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 Parties in no way limit Developer Parties' 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 Developer Parties 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 Party is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

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

If Developer Parties, 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 Parties agree 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 Indemnitees

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

(ii) Developer Parties' 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 official statement, limited offering memorandum or private placement memorandum or the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by Developer Parties or any Affiliate Developer Parties or any agents, employees, contractors or persons acting under the control or at the request of Developer or any Affiliate of Developer Parties; or

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

provided, however, that Developer Parties 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 Parties 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. Developer Parties 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 Developer Parties' 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 Developer Parties' offices for inspection, copying, audit and examination by an authorized representative of the City, at Developer Parties' expense. Developer Parties shall incorporate this right to inspect, copy, audit and examine all books and records into all contracts entered into by Developer Parties 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 Developer Parties under this Agreement (provided, however, the occurrence of an Event of Default by Owner shall not be deemed to constitute an Event of Default by CHA CSC and the occurrence of an Event of Default by CHA CSC shall not be deemed to constitute an Event of Default by Owner):

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

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

(c) a Developer Party makes or furnishes to the City 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 when made;

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

(e) the commencement of any proceedings in bankruptcy by or against a Developer Party or for the liquidation or reorganization of a Developer Party, or alleging that a Developer Party is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of a Developer Party'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 such Developer Party; 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 a Developer Party, for any substantial part of a Developer Party's assets or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of a Developer Party; 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) any judgment or order is entered against a Developer Party and remains unsatisfied or undischarged and in effect for sixty (60) days after such entry without a stay of enforcement or execution;

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

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

(j) a criminal proceeding (other than a misdemeanor) is instituted in any court against a Developer Party or any natural person who owns a material interest in a Developer Party and is not dismissed within thirty (30) days, or a Developer Party or any natural person who owns a material interest in a Developer Party is indicted for any crime (other than a misdemeanor);

(k) before the expiration of the Term of the Agreement, a majority of the ownership interests of a Developer Party are sold or transferred without the prior written consent of the City;

(l) A Developer Party or any party that is a Controlling Person (defined in Section 1-23-010 of the Municipal Code) with respect to a Developer Party fails to maintain eligibility to do business with the City in violation of Section 1-23-030 of the Municipal Code; such failure shall render this Agreement voidable or subject to termination, at the option of the Chief Procurement Officer; or

(m) A Developer Party fails to submit the Annual Compliance Report to the City within 60 days after each anniversary of the Closing Date during the Term of the Agreement as provided in Section 8.20.

For purposes of Sections 15.01(i) and 15.01(j), a person with a material interest in a Developer Party shall be one having a direct or indirect beneficial interest (including ownership) exceeding 10% of a Developer Party. The City hereby agrees that, in addition to the cure rights set out in Section 15.03 below, any cure of any default made or tendered by one or more of Owner's investor members or a Lender providing Lender Financing shall be deemed to be a cure by the Owner and/or Developer Parties and shall be accepted or rejected on the same basis as if made or tendered by Owner and/or Developer Parties

**15.02 Remedies.** Upon the occurrence of an Event of Default, the City may terminate this Agreement and any other agreements to which the City and Developer Parties are or shall be parties, suspend disbursement of City Funds, place a lien on the Project in the amount of City Funds paid, seek reimbursement of any City Funds paid and/or draw down up to the entire balance of the Letter of Credit, if any, as set forth in this Section 15.02 below. 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 damages, injunctive relief or the specific performance of the agreements contained in this Agreement. Upon the occurrence of an Event of Default under Section 8.06, Developer Parties shall be obligated to repay to the City all previously disbursed City Funds.

Upon the occurrence of an Event of Default under Section 15.01(m), the defaulting Developer Party shall be obligated to pay to the City the amount of \$10,000 as liquidated damages, and not as a penalty, which such payment shall be required no more often than once per calendar year. Any payment of liquidated damages by the defaulting Developer Party shall not relieve such Developer Party of its obligation under Section 8.20.

Upon the occurrence of an Event of Default because of failure to comply with Section 8.22, (Sustainable Development Policy), the City's remedy shall be the right to reduce the amount of City Funds by \$250,000.

**15.03 Curative Period.** In the event Developer shall fail to perform a monetary covenant which Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless 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 Developer shall fail to perform a non-monetary covenant which Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless 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, Developer shall not be deemed to have committed an Event of Default under this Agreement if it has started 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.

**15.04 Right to Cure by Investor Member and Lenders other than CHA CSC.** 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 the termination of this Agreement, the cancellation, suspension, or reduction of any payment due from the City under this Agreement, the City shall send notice of such intended exercise to the parties identified in Section 17 and the Investor Member and any lender providing Lender Financing, other than CHA CSC, shall have the right (but not the obligation) to cure such an Event of Default under the following conditions:

- (i) if the Event of Default is a monetary default, the cure is completed within 30 days after the later of: (a) the expiration of the cure period, if any, granted to Developer Parties with respect to such monetary default; or (b) receipt by the lenders and the Investor Member of such notice from the City; and
- (ii) if the Event of Default is of a non-monetary nature, the cure is completed within 30 days after the later of: (a) the expiration of the cure period, if any, granted to Developer Parties with respect to such non-monetary default; or (b) receipt of such notice from the City; provided, however, that if such non-monetary default is not reasonably capable of being cured by the lenders or the Investor Member within such 30-day period, such period shall be extended for such reasonable period of time as may be necessary to cure such default, provided that the party seeking such cure must continue diligently to pursue such cure and, if possession of the Project is necessary to effect such cure, the party seeking such cure must have instituted appropriate legal proceedings to obtain possession.

## SECTION 16. MORTGAGING OF THE PROJECT

All mortgages or deeds of trust in place as of the date of this Agreement with respect to the Property or any portion thereof that were made before or on the date of this Agreement in connection with Lender Financing and which are Permitted Liens are referred to in this Agreement as the "Existing Mortgages." Any mortgage or deed of trust that Developer Parties may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof is referred to in this Agreement as a "New Mortgage." Any New Mortgage that Developer Parties 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 in this Agreement as a "Permitted Mortgage." The City and Developer Parties agree as follows:

(a) If a mortgagee or any other party shall succeed to Developer Parties' 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 Developer Parties' interest under this Agreement in accordance with Section 18.14 (Assignment), the City may, but shall not be obligated to, attorn to and recognize such party as the successor in interest to Developer Parties 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 leasehold estate specified in Section 7.02.

(b) If any mortgagee shall succeed to Owner'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 Developer Parties' interest under this Agreement in accordance with Section 18.14 (Assignment), the City hereby agrees to attorn to and recognize such party as the successor in interest to Developer Parties for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "Developer Parties" under this Agreement; 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 Developer's interest under this Agreement, such party has no liability under this Agreement for any Event of Default of Developer Parties which accrued before such party succeeded to the interest of Developer Parties under this Agreement, in which case Developer Parties shall be solely responsible. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of Developer Parties' interest under this Agreement, 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 leasehold estate.

(c) Before the City issues a Certificate under Section 7, Developer Parties shall not execute a New Mortgage with respect to the Property or any portion of the Property without the prior written consent of the Commissioner of DPD and/or DOH.

**SECTION 17. NOTICE**

Unless otherwise specified, any notice, demand or request required under this Agreement 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.

<p><b>If to the City:</b></p> <p>City of Chicago                  Department of Planning and Development                  121 North LaSalle Street, Room 1000                  Chicago, Illinois 60602                  Attention: Commissioner</p>	<p><b>If to Developer:</b></p> <p>Legends A-3, LLC                  c/o Brinshore Development, L.L.C.                  1603 Orrington, Suite 450                  Evanston, Illinois 60201                  Att'n: Richard Sciortino</p> <p>And to:</p> <p>c/o The Michaels Organization                  542 S. Dearborn Street, Suite 800                  Chicago, IL 60605                  Att'n: Greg Olson</p> <p>And to:</p> <p>CHA Community Support Corporation                  c/o Chicago Housing Authority                  60 East Van Buren Street                  Chicago, Illinois 60605</p>
<p><b>With Copies To:</b></p> <p>City of Chicago                  Department of Law                  121 North LaSalle Street, Room 600                  Chicago, Illinois 60602                  Attention: Finance and Economic Development Division</p>	<p><b>With Copies To:</b></p> <p>Applegate &amp; Thorne-Thomsen, P.C.                  425 S. Financial Place, Suite 1900                  Chicago, Illinois 60605                  Attention: Bennett P. Applegate Jr., Esq.</p> <p>Chicago Housing Authority                  Office of the General Counsel                  60 E. Van Buren Street                  Chicago, Illinois 60605</p>

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.

Except for changes or amendments that are otherwise expressly identified as being in the discretion of the Commissioner, this Agreement and its Exhibits may not be amended or modified without the prior written consent of the parties to this Agreement; provided, however, that the City, in its sole discretion, may amend, modify, or supplement the Redevelopment Plan without the consent of any party to this Agreement. 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 Parties (including those set forth in Sections 10.02 and 10.03) by more than five percent (5%) or materially changes the Project site or character of the Project or any activities undertaken by Developer Parties affecting the Project site, the Project, or both, or increases any time agreed for performance by Developer Parties by more than ninety (90) days.

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

18.03 Limitation of Liability. No member, official or employee of the City shall be personally liable to Developer Parties 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 Developer Parties from the City or any successor in interest or on any obligation under the terms of this Agreement.

18.04 Further Assurances. Developer Parties agree 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 Developer Parties 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 Developer Parties 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 of this Agreement. 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 to this Agreement, shall constitute a waiver of any such parties' rights or of any obligations of any other party to this Agreement as to any future transactions.

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

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 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.

18.09 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 in this Agreement and the remainder of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

18.10 Conflict. In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances, such ordinance(s) shall prevail and control.

18.11 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.

18.12 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.

18.13 Approval. Wherever this Agreement provides for the approval or consent of the City, DPD and/or DOH or the Commissioner, or any matter is to be to the City's, DPD and/or DOH's or the Commissioner's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given, or determined by the City, DPD and/or DOH 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, DPD and/or DOH in making all approvals, consents, and determinations of satisfaction, granting the Certificate or otherwise administering this Agreement for the City.

18.14 Assignment. Developer Parties may not sell, assign, or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City. The City hereby consents to the execution and delivery of a Collateral Assignment in favor of a lender holding Lender Financing. Any successor in interest to Developer Parties under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, as described in Section 7.02 (Effect of Issuance of Certificate; Continuing Obligations), for the Term of the Agreement. Each of the Developer Parties consents to the City's sale, transfer, assignment, or other disposal of this Agreement at any time in whole or in part.

18.15 Binding Effect. This Agreement shall be binding upon Developer Parties, the City and their respective successors and permitted assigns (as provided in this Agreement) and shall inure to the benefit of Developer Parties, the City and their respective successors and permitted assigns (as provided in this Agreement). Except as otherwise provided in this Agreement, 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.

18.16 Force Majeure. Neither the City nor Developer Parties 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 under this Agreement. 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.

18.17 Business Economic Support Act. Pursuant to the Business Economic Support Act (30 ILCS 760/1 et seq.), if Developer Parties are required to provide notice under the WARN Act, Developer Parties 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 Developer Parties has locations in the State. Failure by Developer Parties 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 in this Agreement.

18.18 Venue and Consent to Jurisdiction. If there is a lawsuit under this Agreement, each party to this Agreement 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.

18.19 Costs and Expenses. In addition to and not in limitation of the other provisions of this Agreement, Developer Parties agree to pay upon demand the City's out-of-pocket expenses, including reasonable 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.

18.20 Business Relationships. Developer Parties acknowledge (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code, (B) that Developer Parties have read such provision and understand 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 that creates a "Financial Interest" (as defined in Section 2-156-010 of the Municipal Code)(a "Financial Interest"), 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 that creates a Financial Interest, 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 that creates a Financial Interest, 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. Developer Parties hereby represent and warrant that, to the best of their knowledge after due inquiry, no violation of Section 2-156-030 (b) has occurred with respect to this Agreement or the transactions contemplated hereby.

18.21 Faircloth-to-RAD Conversion. In connection with the anticipated conversion of certain residential housing units within the Project to RAD-assisted units through HUD's Faircloth-to-RAD program (the "RAD Conversion"), which is anticipated to occur after the completion of construction of the Project, the City and the Developer Parties intend to amend this Agreement and subordinate this Agreement to certain RAD-related regulatory agreements as may be required by HUD in connection with the RAD Conversion; provided that the terms of the such amendment and subordination will be in form and substance acceptable to the City in its sole discretion.

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

**CHA Community Support Corporation, an Illinois not-for-profit corporation**

By: Ann McKenzie

\_\_\_\_\_

Its: President

**Legend A-3, LLC, an Illinois limited liability company**

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

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

**CITY OF CHICAGO**

By: \_ Ciere Boatright

\_\_\_\_\_

Commissioner  
Department of Planning and Development

STATE OF ILLINOIS )  
 ) SS  
 COUNTY OF COOK )

I, \_\_\_\_\_, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ of CHA Community Support Corporation, an Illinois not-for-profit corporation (the "CHA CSC"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the [Board of Directors] of CHA CSC, as his/her free and voluntary act and as the free and voluntary act of CHA CSC, for the uses and purposes therein set forth.

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

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

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

(SEAL)

STATE OF ILLINOIS )  
 ) SS  
 COUNTY OF COOK )

I, \_\_\_\_\_, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ of Legend A-3, LLC, an Illinois limited liability company (the "Owner"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the [Board of Directors] of Owner, as his/her free and voluntary act and as the free and voluntary act of Owner, for the uses and purposes therein set forth.

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

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

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

(SEAL)

STATE OF ILLINOIS )  
 ) SS  
 COUNTY OF COOK )

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

GIVEN under my hand and official seal this \_\_\_ day of \_\_\_\_\_, 2024.

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

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

(Sub)Exhibits "A", "B", "C", "D" and "E" referred to in this Legend A-3 LLC Redevelopment Agreement read as follows:

(Sub)Exhibit "A".  
(To Legend A-3 LLC Redevelopment Agreement)

*Legal Description Of Property.*

[Subject to Survey and Title Insurance]

Property Address:

4520 South State Street, Chicago, Illinois 60609

Property identification numbers (PINs):

20-04-429-024

PORTION OF 20-04-429-026 PORTION OF 20-04-435-016

Legal Description:

**SUB AREA A**

That part of Lots 10 through 14, both inclusive, in Block 1, in Van H. Higgin's Subdivision of the 25 acres South of and adjoining the North 60 acres of the Southeast Quarter of Section 4, Township 38 North, Range 14 East of the Third Principal Meridian, AND ALSO Lots A through E in the Resubdivision of Lots 1 to 6 in B.F. Johnson's Subdivision in the Southeast Quarter of the Southeast Quarter of said Section 4, AND ALSO Lots 1 through 10, both inclusive, in Block 1, in John O'Malley Subdivision of part of the East Half of the Southeast Quarter of said Section 4, AND ALSO part of Streets and Alleys Vacated by Ordinance Recorded December 14, 1960 as Document number 18040744, AND ALSO part of the Southeast Quarter of said Section 4, more particularly described as follows;

Commencing at the Northeast corner of Lot A in the Plat of Subdivision of the North 10 Rods of the South 45 Rods of the Southeast Quarter of the Southeast Quarter of said Section 4; thence North 01 degree 45 minutes 37 seconds West along the West line of South State Street 66.00 feet; thence South 88 degrees 05 minutes 31 seconds West 68.38 feet to the Point of Beginning; thence continuing South 88 degrees 05 minutes 31 seconds West 31.62 feet; thence North 01 degrees 45 minutes 37 seconds West 552.66 feet to the South line of West 45th Street as dedicated in Plat recorded as document number 060209; thence North 88 degrees 21 minutes 50 seconds East along said South line 100.00 feet to the West line of South State Street; thence South 01 degree 45 minutes 37 seconds East along said West line 434.54 feet; thence South 88 degrees 05 minutes 31 seconds West 68.38 feet; thence South 01 degrees 45 minutes 37 seconds East 117.64 feet to the Point of Beginning, in Cook County, Illinois.

Said parcel containing 1.084 acres (47,198 sq. ft.), more or less.

**ALLEY**

That part of Lots 10 through 14, both inclusive, in Block 1, in Van H. Higgin's Subdivision of the 25 acres South of and adjoining the North 60 acres of the Southeast Quarter of Section 4, Township 38 North, Range 14 East of the Third Principal Meridian, AND ALSO Lots A through E in the Resubdivision of Lots 1 to 6 in B.F. Johnson's Subdivision in the

Southeast Quarter of the Southeast Quarter of said Section 4, AND ALSO Lots 1 through 10, both inclusive, in Block 1, in John O'Malley Subdivision of part of the East Half of the Southeast Quarter of said Section 4, AND ALSO part of Streets and Alleys Vacated by Ordinance Recorded December 14, 1960 as Document number 18040744, AND ALSO part of the Southeast Quarter of said Section 4, more particularly described as follows;

Commencing at the Northeast corner of Lot A in the Plat of Subdivision of the North 10 Rods of the South 45 Rods of the Southeast Quarter of the Southeast Quarter of said Section 4; thence North 01 degree 45 minutes 37 seconds West along the West line of South State Street 66.00 feet; thence South 88 degrees 05 minutes 31 seconds West 100.00 feet to the Point of Beginning; thence continuing South 88 degrees 05 minutes 31 seconds West 16.00 feet; thence North 01 degrees 45 minutes 37 seconds West 552.73 feet to the South line of West 45th Street as dedicated in Plat recorded as document number 060209; thence North 88 degrees 21 minutes 50 seconds East along said South line 16.00 feet; thence South 01 degree 45 minutes 37 seconds East 552.66 feet to the Point of Beginning, in Cook County, Illinois.

Said parcel containing 0.203 acres (8,843 sq. ft.), more or less.

(Sub)Exhibit "B".  
(To Legend A-3 LLC Redevelopment Agreement)

*Project Budgets (Project Budget, MBE/WBE Budget  
And TIF-Funded Improvements.*

[attached- subject to change approved by City at closing]

Notwithstanding the total of TIF-Funded Improvements or the amount of TIF-eligible costs, the assistance to be provided by the City is limited to the amount described in Section 4.03.

<b>Project Budget</b>	
Land Cost	\$2,080,000.00
Net Construction Costs	\$23,838,620.00
Other Hard Costs	\$150,000.00
General Conditions	\$1,439,317.00
Overhead	\$479,772.00
Profit	\$1,439,317.00
Furniture, Fixtures, & Equip't	\$150,000.00
Building Permits	\$150,000.00
GC Insurance	\$239,886.00
Contingency	\$1,379,346.00
Electrical & Gas	\$200,000.00
Soil Testing	\$90,000.00
Land Remediation	\$250,000.00
Commercial Construction	\$166,905.00
Other Commercial	\$20,000.00
Architect - Design	\$1,001,870.00
Architect - Supervision	\$333,957.00
Engineering Fees	\$224,750.00
Permit Expediter	\$45,000.00
As-Is Plats & Surveys	\$60,000.00
Accountant -- 8609s	\$15,000.00
Accountant -- General	\$25,000.00
Legal - Organizational	\$481,000.00
Legal - Syndication	\$75,000.00
Appraisal	\$15,000.00
Market Study	\$15,000.00
Phase I Environ. Report	\$7,150.00
Phase II Environ. Report	\$87,275.00
Title & Recording Fees	\$100,000.00
Other Professional Fees	\$203,500.00
Tax Credit Issuer Fees	\$122,250.00
Construction Points	\$135,000.00
Perm Loan Points	\$18,900.00
Construction Inspection	\$45,000.00
Lender Legal Fees	\$100,000.00
Construction Interest	\$1,475,951.00
Other Lender Fees	\$85,000.00
Liability Insurance	\$65,000.00
Hazard Insurance	\$193,021.00
Leasing Personnel	\$26,000.00
Other Marketing & Leasing	\$25,000.00
Developer Fee	\$2,126,247.00
Lease-Up Reserve	\$148,146.00
Property Tax Reserve	\$115,700.00
Operating Reserve	\$297,000.00
<b>TOTAL</b>	<b>\$39,740,880</b>

<b>TIF-FUNDED IMPROVEMENTS</b>
--------------------------------

<u>Category</u>	<u>Project Budget</u>	<u>TIF Eligible Cost</u>
Affordable Housing Unit Hard Costs	\$27,347,026	\$10,255,134.75
Environmental Remediation	\$250,000	\$250,000
Eligible soft costs related to construction		
Architect-Design	\$1,001,870	\$375,701
Architect-Supervision	\$333,957	\$125,233.87
Engineer	\$224,750	\$84,281.25
Soft Costs	\$2,543,408	\$1,064,475.12
		\$12,154,825.99

<b>MBE/WBE BUDGET</b>
-----------------------

Project Hard Costs	\$ 29,993,163
Project Soft Costs (Arch., Eng., Etc.)	\$ 1,650,577
Project MBE/WBE Total Budgets	\$ 31,643,740
Project MBE Total at 26%	\$ 8,227,372
Project WBE Total at 6%	\$ 1,898,624

(Sub)Exhibit "C".  
(To Legend A-3 LLC Redevelopment Agreement)

Requisition Form.

State of Illinois )  
                                  ) SS.  
County of Cook )

The affiant, \_\_\_\_\_, of \_\_\_\_\_, a \_\_\_\_\_ (the "Developer"), hereby certifies that with respect to that certain \_\_\_\_\_ Redevelopment Agreement between the Developer and the City of Chicago dated \_\_\_\_\_, \_\_\_\_\_ (the "Agreement"):

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

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

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

C. Developer Parties request reimbursement for the following cost of TIF-Funded Improvements:

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

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

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

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

2. No Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default, exists or has occurred.

All capitalized terms which are not defined in this Requisition Form have the meanings given such terms in the Agreement.

[Developer]

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

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

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

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

Agreed and Accepted:

\_\_\_\_\_  
Name

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

City of Chicago  
Department of Planning and Development

*(Sub)Exhibit "D".*  
(To Legend A-3 LLC Redevelopment Agreement)  
*Preliminary TIF Projection -- Real Estate Taxes.*

[Will Be Provided At Closing]

*(Sub)Exhibit "E".*  
(To Legend A-3 LLC Redevelopment Agreement)  
*Funding Sources.*

[All Amounts Subject To Change Prior To Closing]

A. Lender Financing:

- 1. Amount:       Approximately \$1,999,000.

- Source: A to-be-determined bank acceptable to the Authorized DOH Officer.
- Term: Not to exceed 44 years or such other term that is acceptable to the Authorized DOH Officer.
2. Amount: Not to exceed \$2,983,269.
- Source: City of Chicago Multi-Family Program Funds.
- Term: Not to exceed 44 years plus construction period or such other term acceptable to the Authorized DOH Officer.
3. Amount: Approximately \$6,720,000 or such other amount to which the Authorized DOH Officer may consent.
- Source: Chicago Housing Authority.
- Term: Not to exceed 44 years or such other term that is acceptable to the Authorized DOH Officer.
4. Amount: Approximately \$850,000 or such other amount to which the Authorized DOH Officer may consent.
- Source: Chicago Housing Authority.
- Term: Not to exceed 44 years or such other term that is acceptable to the Authorized DOH Officer.
5. Amount: Approximately \$941,200 or such other amount to which the Authorized DOH Officer may consent.
- Source: Sponsor, derived from the syndication of the Illinois Affordable Housing Tax Credits allocated by the City and loan of proceeds.
- Term: Not to exceed 44 years or such other term that is acceptable to the Authorized DOH Officer.

B. Other Financing (all numbers are approximate and subject to change at closing)

- |                            |               |
|----------------------------|---------------|
| 1. City TIF Funds:         | \$10,000,000. |
| 2. ComEd Grant:            | \$238,515.    |
| 3. 45L Tax Credit:         | \$239,176.    |
| 4. General Partner Equity: | \$100.        |
| 5. Tax Credit Equity:      | \$13,798,620. |
| 6. Seller's Note:          | \$2,080,000.  |

ISSUANCE OF MULTI-FAMILY HOUSING REVENUE BONDS AND OTHER FINANCIAL ASSISTANCE TO MHL 2 PRAIRIE DISTRICTS APARTMENTS-WABASH L.P. FOR ACQUISITION AND REHABILITATION OF AFFORDABLE RESIDENTIAL HOUSING AT 1801 S. WABASH AVE.

[SO2024-0010983]

The Committee on Finance submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on Finance, to which was referred a substitute ordinance concerning the issuance of Multi-Family Housing Revenue Bonds and other financial assistance to MHL 2 Prairie District Apartments-Wabash L.P. for the MHL2 Prairie District Apartments project located at 1801 South Wabash Avenue in the 3<sup>rd</sup> Ward (SO2024-0010983), in an amount not to exceed \$10,968,816 in Multi-Family Program funds and \$30,000,000 in Tax Exempt Bonds, having had the same under advisement, begs leave to report and recommend that Your Honorable Body *Pass* the proposed substitute ordinance transmitted herewith.

This recommendation was concurred in by a voice vote of the members of the committee present, with no dissenting votes on September 16, 2024.

Respectfully submitted,

(Signed) PAT DOWELL,  
*Chair.*

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

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

The following is said ordinance as passed:

WHEREAS, By virtue of Section 6(a) of Article VII of the 1970 Constitution of the State of Illinois (the "State"), the City of Chicago (the "City") is a home rule unit of government and, as such, may exercise any power and perform any function pertaining to its government and affairs; 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, As a home rule unit and pursuant to the Constitution, the City is authorized and empowered to issue multi-family housing revenue obligations for the purpose of financing the cost of the acquisition, construction, rehabilitation, development, and equipping of affordable multi-family housing facilities for low- and moderate-income families located in the City ("Multi-Family Housing Financing"); and

WHEREAS, MHL 2 Prairie District Apartments-Wabash L.P., an Illinois limited partnership (the "Borrower"), the general partner of which is MHL 2 Prairie District Apartments-Wabash GP LLC, an Illinois limited liability company (the "General Partner"), of which Mercy Housing Lakefront, an Illinois not-for-profit corporation, is the manager and a member (the "Managing Member"), of which Mercy Housing, Inc., an Illinois not-for-profit corporation, is the sole member (the "Sole Shareholder"), intends to acquire, rehabilitate and equip a six-story building located generally at 1801 South Wabash Avenue in Chicago, Illinois, on land more particularly described on Exhibit E hereto (the "Property"), to contain 100 studios (the "Units") affordable for rental to households earning at or below 80 percent of the area median income with at least 40 percent or more of the Units occupied by households earning 60 percent or less of the area median income, as well as a ground floor devoted to residential amenities and community space (collectively, the "Project"); and

WHEREAS, The Borrower desires to obtain Multi-Family Housing Financing from the City for the purpose of financing the acquisition, rehabilitation and equipping of the Project, as further defined in Exhibit A, and to pay a portion of the costs of issuance and other costs incurred in connection therewith; and

WHEREAS, By this ordinance, the City Council of the City (the "City Council") has determined that it is necessary and in the best interests of the City to provide Multi-Family Housing Financing to the Borrower, to pay a portion of the costs of acquiring and rehabilitating the Project, by issuing a series of tax-exempt revenue bonds and using the proceeds of the sale thereof to make an additional loan to the Borrower to finance a portion of the costs of the Project (the "Borrower Loan"); and

WHEREAS, By this ordinance, the City Council has determined that it is necessary and in the best interests of the City to borrow money for the purposes set forth above and in evidence of its limited, special obligation to repay that borrowing, to issue its Multi-Family Housing Revenue Bonds (Prairie District Apartments Project), Series 2024 (the "Bonds"); and

WHEREAS, In connection with the issuance of the Bonds, the City Council has determined by this ordinance that it is necessary and in the best interests of the City to enter into: (i) a Bond Indenture (the "Indenture") between the City and a trustee (the "Trustee") to be selected by the Chief Financial Officer (as defined below), providing for the security for and terms and conditions of the Bonds to be issued; (ii) a Loan Agreement (the "Loan Agreement") among the City, the Borrower and the Trustee providing for the use of the proceeds of the Bonds to make a loan to the Borrower, the proceeds of which will finance a portion of the costs of the Project; (iii) a Bond Purchase Agreement among the City, the Borrower and one or more underwriters for the Bonds, or, alternatively, another sale agreement among the City, the Borrower and one or more purchasers of the Bonds (in each case, a "Bond Purchase Agreement") providing for the sale of the Bonds and the preparation and circulation, if necessary, of a preliminary official statement for the Bonds or, alternatively, another type of disclosure document prepared in connection with the offer and sale of the Bonds (in either case, a "Preliminary Official Statement") and a final official statement or alternative disclosure document prepared in connection with the offer and sale of the Bonds (the "Official Statement"); and (iv) a Tax Regulatory Agreement and/or a tax certificate (a "Tax Agreement") between the City and the Borrower; and

WHEREAS, The principal and interest on the Bonds will be secured by, among other things, Eligible Funds (as defined in the Indenture), which, in the aggregate, do not exceed the amount set forth in the Indenture; and

WHEREAS, In connection with the issuance of the Bonds and the financing of the Project with the proceeds thereof, the City Council has determined by this ordinance that it is necessary and in the best interests of the City to enter into a Land Use Restriction Agreement between the City and the Borrower (the "Land Use Restriction Agreement"); and

WHEREAS, The Bonds and the obligation to pay interest thereon do not now and shall never constitute an indebtedness of or an obligation of the City, the State or any political subdivision thereof, within the purview of any Constitutional limitation or statutory provision, or a charge against the general credit or taxing powers of any of them. No owner of the Bonds shall have the right to compel the taxing power of the City, the State or any political subdivision thereof to pay any principal installment of, prepayment premium, if any, or interest on the Bonds; and

WHEREAS, There has been presented to this meeting of the City Council forms of the following documents in connection with the Bonds:

(a) the form of Indenture, which includes a form of the Bonds to be issued by the City (attached as Exhibit B, hereto, subject to further changes approved by the Authorized Officer);

(b) the form of Loan Agreement (attached as Exhibit C hereto, subject to further changes approved by the Authorized Officer); and

WHEREAS, There has been presented to this meeting of the City Council a form of the Land Use Restriction Agreement (attached as Exhibit D hereto, subject to further changes approved by the Authorized Officer) in connection with the issuance of the Bonds; 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 DOH; and

WHEREAS, DOH has preliminarily reviewed and approved the making of a loan to the Borrower in an amount not to exceed \$10,968,816 to be funded from Multi-Family Program Funds (the "City Loan") pursuant to the terms and conditions set forth in Exhibit A attached hereto and made a part hereof; and

WHEREAS, The City Council, pursuant to an ordinance enacted on March 6, 1996 and published at pages 16280 -- 16286 of the *Journal of the Proceedings of the City Council of the City of Chicago* for such date, authorized DOH to provide HOME Investment Partnership Act funds in the amount of \$9,494,170 for the rehabilitation of the Property which presently contains 170 residential dwelling units (the "Existing Project"); and

WHEREAS, On June 20, 1996, pursuant to such ordinance, the City made a loan to 18<sup>th</sup> & Wabash Corporation, an Illinois not-for-profit corporation and current owner of the Existing Project (the "Current Owner"), in the amount of \$9,494,170 with an interest rate of two percent per annum (the "Existing City Loan"); and

WHEREAS, The Existing City Loan is secured by, among other things, that certain Junior Mortgage, Assignment of Rents and Security Agreement dated June 20, 1996 and recorded on June 20, 1996 in the Office of the Recorder of Deeds of Cook County, Illinois, as Document Number 96476437 (the "Existing City Mortgage"); and

WHEREAS, As described above as part of the Project, the Borrower plans to acquire the Existing Project from the Current Owner; and

WHEREAS, The Current Owner requested that DOH approve a proposed forgiveness of the Existing City Loan; and

WHEREAS, DOH has agreed to: (i) forgive, cancel and discharge the outstanding principal and interest of the Existing City Loan, as well as any defaults, default interest and fees thereto; and (ii) release the Existing City Mortgage (collectively, clauses (i) and (ii) shall be herein referred to as the "Loan Forgiveness"); and

WHEREAS, The Borrower now desires to obtain financing from various sources including, but not limited to, the Borrower Loan, all such financing as described in Exhibit A; now, therefore,

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

SECTION 1. Incorporation Of Recitals. The recitals contained in the preambles to this ordinance are hereby incorporated into this ordinance by this reference. All capitalized terms used in this ordinance, unless otherwise defined herein, shall have the meanings ascribed thereto in the Indenture.

SECTION 2. Findings And Determinations. The City Council hereby finds and determines that the delegations of authority that are contained in this ordinance, including the authority to make the specific determinations described herein, are necessary and desirable. Thus, authority is granted to the Chief Financial Officer (the Chief Financial Officer, being referred to herein as the "Authorized Officer") to determine to sell the Bonds on such terms as and to the extent such officer determines that such sale or sales is desirable and in the best financial interest of the City. Any such designation and determination by the Authorized Officer shall be signed in writing by the Authorized Officer and filed with the City Clerk and shall remain in full force and effect for all purposes of this ordinance unless and until revoked, such revocation to be signed in writing by the Authorized Officer and filed with the City Clerk. As used herein, the term "Chief Financial Officer" shall have the meaning given to such term in Section 1-4-090(k) of the Municipal Code of Chicago (the "Municipal Code").

SECTION 3. Authorization Of Bonds. Upon the approval and availability of the additional financing as shown in Exhibit A (the "Additional Financing"), the issuance of the Bonds in an aggregate principal amount of not to exceed Thirty Million Dollars (\$30,000,000) is hereby authorized.

The Bonds shall contain a provision that they are issued under authority of this ordinance. The Bonds shall not mature later than 5 years after the date of issuance thereof. The Bonds shall bear interest at a rate or rates not to exceed six percent (6.0%), payable on the interest payment dates as set forth in the Indenture. The Bonds shall be dated, shall be subject to redemption or tender prior to maturity, shall be payable in such places and in such manner and shall have such other details and provisions as prescribed by the Indenture and the form of the Bonds therein.

The provisions for execution, signatures, authentication, payment and prepayment, with respect to the Bonds shall be as set forth in the Indenture and the form of the Bonds therein.

The Authorized Officer is hereby authorized to execute and deliver the Indenture on behalf of the City, such Indenture to be in substantially the form attached hereto as Exhibit B and made a part hereof and hereby approved with such changes therein as shall be approved by the Authorized Officer executing the same, with such execution to constitute conclusive evidence of such Authorized Officer's approval and the City Council's approval of any changes or revisions from the form of the Indenture attached to this ordinance.

The Authorized Officer is hereby authorized to execute and deliver the Loan Agreement on behalf of the City, such Loan Agreement to be in substantially the form attached hereto as Exhibit C and made a part hereof and hereby approved with such changes therein as

shall be approved by the Authorized Officer executing the same, with such execution to constitute conclusive evidence of such Authorized Officer's approval and the City Council's approval of any changes or revisions from the form of the Loan Agreement attached to this ordinance.

The Authorized Officer is hereby authorized to execute and deliver a Bond Tax Compliance Agreement on behalf of the City, in substantially the form of tax regulatory agreements used in previous issuances of tax-exempt bonds pursuant to programs similar to the Bonds, with appropriate revisions to reflect the terms and provisions of the Bonds and the applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations promulgated thereunder, and with such other revisions in text as the Authorized Officer executing the same shall determine are necessary or desirable in connection with the exclusion from gross income for federal income tax purposes of interest on the Bonds. The execution of the Bond Tax Compliance Agreement by the Authorized Officer shall be deemed conclusive evidence of the approval of the City Council of the terms provided in the Bond Tax Compliance Agreement.

The Authorized Officer is hereby authorized to execute and deliver the Land Use Restriction Agreement on behalf of the City in connection with the issuance of the Bonds, such Land Use Restriction Agreement to be in substantially the form attached hereto as Exhibit D and made a part hereof and hereby approved with such changes therein as shall be approved by the Authorized Officer executing the same, with such execution to constitute conclusive evidence of such Authorized Officer's approval and the City Council's approval of any changes or revisions from the form of the Land Use Restriction Agreement attached to this ordinance.

The City Clerk or Deputy City Clerk is hereby authorized to attest the signature of the Authorized Officer to any document referenced herein and to affix the seal of the City to any such document.

**SECTION 4. Security For The Bonds.** The Bonds shall be limited obligations of the City, payable solely from: (i) all right, title and interest of the City in and to all revenues, derived or to be derived by the City under the terms of the Indenture and the Loan Agreement (other than certain reserved rights of the City); (ii) the proceeds of the Bonds and income from the temporary investment thereof, as provided in the Indenture; and (iii) all funds, monies and securities and any and all other rights and interests in property whether tangible or intangible from time to time hereafter by delivery or by writing of any kind, conveyed, mortgaged, pledged, assigned or transferred as and for additional security hereunder for the Bonds by the City or by anyone on its behalf. In order to secure the payment of the principal of, premium, if any, and interest on the Bonds, such rights, proceeds and investment income are hereby pledged to the extent and for the purposes as provided in the Indenture and are hereby appropriated for the purposes set forth in the Indenture. The Indenture shall set forth such covenants with respect to the application of such rights, proceeds and investment income as shall be deemed necessary by the Authorized Officer in connection with the sale of the Bonds.

SECTION 5. Sale And Delivery Of Bonds. The Bonds shall be sold and delivered to, or upon the direction of, one or more underwriters (the "Underwriters") to be selected by the Authorized Officer, subject to the terms and conditions of the Bond Purchase Agreement, or, alternatively, are hereby authorized to be sold and delivered directly to one or more investors to be selected by the Authorized Officer subject to the terms and conditions of the Bond Purchase Agreement. The Authorized Officer is authorized to execute and deliver on behalf of the City, with the concurrence of the Chairman of the Committee on Finance of the City Council, the Bond Purchase Agreement in substantially the form of bond purchase agreements used in previous sales of bonds pursuant to programs similar to the Bonds, with appropriate revisions to reflect the terms and provisions of the Bonds and the fact that the Bonds may be sold to certain institutional investors at a premium or discount, and with such other revisions in text as the Authorized Officer shall determine are necessary or desirable in connection with the sale of the Bonds. The execution of the Bond Purchase Agreement by the Authorized Officer shall be deemed conclusive evidence of the approval of the City Council of the terms provided in the Bond Purchase Agreement. The distribution of the Preliminary Official Statement and the Official Statement to prospective purchasers of the Bonds and the use thereof by the Underwriters in connection with the offering and sale of the Bonds are hereby authorized, provided that the City shall not be responsible for the content of the Preliminary Official Statement or the Official Statement except as specifically provided in the Bond Purchase Agreement executed by the Authorized Officer, and provided further that, if the Bonds are sold directly to institutional investors, the City may forgo the use of a Preliminary Official Statement or Official Statement, but only if such institutional investors execute and deliver to the City "sophisticated investor" letters satisfactory to the Authorized Officer. The compensation paid to the Underwriters in connection with the sale of the Bonds shall not exceed one half percent (0.50%) of the aggregate principal purchase price of the Bonds, exclusive of legal cost in connection therewith. In connection with the offer and delivery of the Bonds, the Authorized Officer, and such other officers of the City as may be necessary, are authorized to execute and deliver such instruments and documents as may be necessary to implement the transaction and to effect the issuance and delivery of the Bonds. Any limitation on the amount of Bonds issued pursuant to this ordinance as set forth herein shall be exclusive of any original issue discount or premium.

SECTION 6. Notification Of Sale. Subsequent to the sale of the Bonds, the Authorized Officer shall file in the Office of the City Clerk a Notification of Sale for the Bonds directed to the City Council setting forth: (i) the aggregate original principal amount of, sale price, maturity schedule, redemption provisions for and nature of the Bonds sold; (ii) the extent of any tender rights to be granted to the holder of the Bonds, including, without limitation, the right of the holder to tender the Bonds in exchange for one or more mortgage-backed securities held by the Trustee under the Indenture; (iii) the identity of the Trustee, the interest rates on the Bonds; (iv) the identity of any underwriters or institutional investors who purchase the Bonds directly from the City or through the Underwriters; and (v) the compensation paid to the Underwriters in connection with such sale. There shall be attached to such notification the final form of the Indenture.

SECTION 7. Use Of Proceeds. The proceeds from the sale of the Bonds shall be deposited as provided in the Indenture and used for the purposes set forth in the seventh paragraph of the recitals of this ordinance.

SECTION 8. Additional Authorization. The Mayor, the Authorized Officer, the City Treasurer and, upon the approval and availability of the Additional Financing, the Commissioner (as defined below) is hereby authorized to execute and deliver and the City Clerk and the Deputy City Clerk are each hereby authorized to enter into, execute and deliver such other documents and agreements and perform such other acts as may be necessary or desirable in connection with the Bonds, including, but not limited to, the exercise following the delivery date of the Bonds of any power or authority delegated to such official under this ordinance with respect to the Bonds upon original issuance, but subject to any limitations on or restrictions of such power or authority as herein set forth.

SECTION 9. Proxies. The Mayor and the Authorized Officer may each designate another to act as their respective proxy and to affix their respective signatures to each of the Bonds, whether in temporary or definitive form, and to any other instrument, certificate or document required to be signed by the Mayor or the Authorized Officer pursuant to this ordinance or the Indenture. In each case, each shall send to the City Council written notice of the person so designated by each, such notice stating the name of the person so selected and identifying the instruments, certificates and documents which such person shall be authorized to sign as proxy for the Mayor and the Authorized Officer, respectively. A written signature of the Mayor or the Authorized Officer, respectively, executed by the person so designated underneath, shall be attached to each notice. Each notice, with signatures attached, shall be recorded in the *Journal* and filed with the City Clerk. When the signature of the Mayor is placed on an instrument, certificate or document at the direction of the Mayor in the specified manner, the same, in all respects, shall be as binding on the City as if signed by the Mayor in person. When the signature of the Authorized Officer is so affixed to an instrument, certificate or document at the direction of the Authorized Officer in the specified manner, the same, in all respects, shall be as binding on the City as if signed by the Authorized Officer in person.

SECTION 10. Volume Cap. The Bonds are obligations taken into account under Section 146 of the Code in the allocation of the City's volume cap.

SECTION 11. Public Hearing. The City Council directs that the Bonds shall not be issued unless and until the requirements of Section 147(f)(1) of the Code, including particularly the approval requirement following any required public hearing, have been fully satisfied, and that no contract, agreement or commitment to issue the Bonds shall be executed or undertaken prior to satisfaction of the requirements of Section 147(f) unless the performance of said contract, agreement or commitment is expressly conditioned upon the prior satisfaction of such requirements. To the extent that the requirements of Section 147(f)(1) of the Code, including the public hearing, have occurred prior to the date of this ordinance, this ordinance constitutes approval for purposes of Section 147(f) of the Code. All such actions taken prior to the enactment of this ordinance are ratified and confirmed.

SECTION 12. Authorization Of Fees And Expenses. The following fees and expenses are hereby authorized in connection with the Bonds: (i) an Issuer Fee in an amount equal to 1.5 percent of the par amount of the Bonds, payable to the City on the date of issuance of the Bonds; (ii) a Bond Legal Reserve Fee in the amount of 0.1 percent of the par amount of

the Bonds, payable to the City on the date of issuance of the Bonds (such fee to be used to pay for other legal and other fees incurred by the City in connection with private activity bonds issued by the City); and (iii) a City Administrative Fee in an amount equal to 0.15 percent of the outstanding principal of the Bonds, accruing monthly but payable to the City on a semi-annual basis.

SECTION 13. City Loan Authorization. Upon the approval and availability of the Additional Financing, the Commissioner is 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 City Loan. The Commissioner is hereby authorized, subject to the approval of the Corporation Counsel, to negotiate any and all terms and provisions in connection with the City Loan that do not substantially modify the terms described in Exhibit A hereto. Upon the execution and receipt of proper documentation, the Commissioner is hereby authorized to disburse the proceeds of the City Loan to the Borrower.

SECTION 14. Forgiveness Of City Loan. The Loan Forgiveness is hereby approved as described above. The Commissioner of Housing (the "Commissioner") or a designee of the Commissioner, are each hereby authorized, subject to approval by the Corporation Counsel, to negotiate any and all terms and provisions in connection with the Loan Forgiveness as described herein. The Commissioner, or a designee of the Commissioner, 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 Loan Forgiveness.

SECTION 15. Separability. If any provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this ordinance.

SECTION 16. Inconsistent Provisions. All ordinances, resolutions, motions or orders in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 17. No Impairment. No provision of the Municipal Code or violation of any provision of the Municipal Code shall be deemed to impair the validity of this ordinance or the instruments authorized by this ordinance or to render any agreement or instrument authorized hereby voidable at the option of the City or to impair the rights of the owners of the Bonds to receive payment of the principal of, premium, if any, or interest on the Bonds or to impair the security for the Bonds; provided further, however, that the foregoing shall not be deemed to affect the availability of any other remedy or penalty for any violation of any provision under the Municipal Code Sections 2-44-080, 2-44-085, 2-44-090, 2-44-100 and 2-44-105 of the Municipal Code shall not apply to the Project or the Property.

SECTION 18. Effective Date. This ordinance shall be in full force and effect immediately upon its passage and approval.

Exhibits "A", "B", "C", "D" and "E" referred to in this ordinance read as follows:

*Exhibit "A".*  
(To Ordinance)

**Borrower:** MHL 2 Prairie District Apartments-Wabash L.P., an Illinois limited partnership and single purpose entity created for the purposes of owning the Project (the "Borrower"), the general partner of which is MHL 2 Prairie District Apartments-Wabash GP LLC, an Illinois limited liability company (the "General Partner"), of which Mercy Housing Lakefront, an Illinois not-for-profit corporation, is the manager and a member (the "Managing Member"), of which Mercy Housing, Inc., an Illinois not-for-profit corporation, is the sole member (the "Sole Shareholder").

**Project:** Acquisition of a six-story building located generally at 1801 South Wabash Avenue in Chicago, Illinois (the "Property") and the rehabilitation thereof to contain 100 studios (the "Units") affordable for rental to households earning at or below 80 percent of the area median income with at least 40 percent or more of the Units occupied by households earning 60 percent or less of the area median income, as well as a ground floor devoted to residential amenities and community space, known as Prairie District Apartments (collectively, the "Project").

1. Bonds:

- Amount: Not to exceed \$30,000,000.
- Source: Proceeds from the issuance of the Bonds.
- Term: 5 years or another term acceptable to the Authorized Officer.
- Interest: 6 percent or such other rate acceptable to the Authorized Officer.
- Security: Eligible Funds.

Additional Financing:

1. Construction Loan:

- Amount: \$30,000,000\*, or another amount acceptable to the Commissioner.

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\* To be repaid with a portion of the syndication of the low-income housing tax credit allocation by the City, the Donation Tax Credit Proceeds, the City Loan, the IHDA Loan and ComEd grant proceeds.

Term: 5 years, or another term acceptable to the Commissioner.

Source: CIBC Bank, USA, or another source acceptable to the Commissioner.

Interest: 30-day SOFR + 260 basis points, or another rate acceptable to the Commissioner.

Security: Mortgage on the Project (the "Senior Mortgage").

2. Donation Tax Credit Proceeds Loan\*:

Amount: Approximately \$6,584,570 or another amount acceptable to the Commissioner.

Term: 33 years, or another term acceptable to the Commissioner.

Source: The proceeds of the sale of Illinois Affordable Housing Tax Credits received by Mercy Housing Lakefront, an Illinois not-for-profit corporation, or another source acceptable to the Commissioner, which proceeds will subsequently be loaned to the Borrower.

Interest: Zero percent per annum or another rate acceptable to the Commissioner.

Security: Non-recourse loan; mortgage on the Property junior to the Senior Mortgage and the City Mortgage.

3. City Loan:

Amount: Not to exceed \$10,968,816.

Source: City of Chicago Multi-Family Program Funds or such other source acceptable to the Commissioner.

Term: 30 years plus construction period or such other term acceptable to the Commissioner.

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\* In lieu of a loan as described above, the Donation Tax Credit proceeds may be contributed in whole or in part as a capital contribution.

Interest: Four percent per annum or such other rate acceptable to the Commissioner.

Security: Mortgage on the Project; junior to the Senior Mortgage, and/or such other security acceptable to the Commissioner (the "City Mortgage").

4. EDI Grant:

Proceeds: Approximately \$2,000,000 or such other amount acceptable to the Commissioner.

Source: Economic Development Initiative, Community Project Funding Grant (by the United States Department of Housing and Urban Development) to Mercy Housing Lakefront or another entity approved by the Commissioner, which subsequently loaned or capitally contributed to the Borrower.

Structure: This amount can be structured as a capital contribution or as an additional secured loan, similar to other subordinate loans set forth on this ordinance Exhibit A.

5. Sponsor Loans:

Proceeds: Approximately \$1,213,511 or such other amount acceptable to the Commissioner.

Source: Various grant sources, including without limitation Federal Home Loan Bank, ComEd, and EPIC, which will be received by Mercy Housing Lakefront and contributed or loaned to the Borrower or such other source acceptable to the Commissioner.

Structure: This amount can be structured as a capital contribution or as an additional secured loan or as multiple secured loans, similar to other subordinate loans set forth on this ordinance Exhibit A.

6. Low-Income Housing Tax Credit ("LIHTC") Equity:

Proceeds: Approximately \$13,948,578 or such other amount acceptable to the Commissioner, all or a portion of which may be paid in on a delayed basis.

Source: To be derived from the syndication of the LIHTCs generated by the issuance of the Bonds.

7. IHDA Loan:

Amount: Approximately \$5,240,000.

Source: IHDA Subordinate Resource.

Term: 30 years plus construction period or such other term acceptable to the Commissioner.

Interest: Zero percent per annum or such other rate acceptable to IHDA.

Security: Mortgage on the Project; junior to the Senior Mortgage and the City Mortgage, or such other security acceptable to the Commissioner.

8. Seller Financing:

Amount: Approximately \$12,500,000, which may be adjusted up to the fair market value as determined by an appraisal of the Property prior to closing and to account for payables due in cash at closing, or such other amount acceptable to the Commissioner.

Term: 30 years plus construction period or such other term acceptable to the Commissioner.

Source: Seller financing from Mercy Housing Lakefront, an Illinois not-for-profit corporation or another entity acceptable to the Commissioner.

Interest: Approximately 4 percent or another rate acceptable to the Commissioner, in no event less than the Applicable Federal Rate the month of closing.

Security: Mortgage on the Property junior to the lien of the City Mortgages or as otherwise acceptable to the Commissioner.

*Exhibit "B".*  
(To Ordinance)

*Bond Indenture.*

THIS INDENTURE ("**Indenture**"), dated as of \_\_\_\_\_ 1, 2024, between the **CITY OF CHICAGO**, a municipality and home rule unit of government duly organized and validly existing under the Constitution and the laws of the State of Illinois (the "**Issuer**"), and **ZIONS BANCORPORATION, NATIONAL ASSOCIATION**, a national banking association, as Trustee (such trustee or any of its successors in trust, the "**Trustee**").

#### RECITALS

**WHEREAS**, pursuant to Article VII, Section 6 of the 1970 Constitution of the State of Illinois and pursuant to the hereinafter defined Ordinance of the Issuer, the Issuer is authorized to exercise any power and perform any function pertaining to its government and affairs, including the power to issue its revenue bonds in order to aid in providing an adequate supply of residential housing for low and moderate income persons or families within the Issuer, which constitutes a valid public purpose for the issuance of revenue bonds by the Issuer;

**WHEREAS**, the Issuer has determined to issue, sell and deliver its \$ \_\_\_\_\_ Multi-Family Housing Revenue Bonds (Prairie District Apartments Project), Series 2024 (the "**Bonds**") pursuant to the Indenture, from the Issuer to the Trustee, and to lend the proceeds thereof to the Borrower for the purpose of financing the acquisition, rehabilitation and equipping of a six-story building located generally at 1801 S. Wabash Avenue in Chicago, Illinois (the "**Property**"), to contain 100 studios (the "**Units**") affordable for rental to households earning at or below 80 percent of the area median income with at least 40 percent or more of the Units occupied by households earning 60 percent or less of the area median income, as well as a ground floor devoted to residential amenities and community space (collectively, the "**Project**") to be known as Prairie District Apartments; and

**WHEREAS**, the Borrower desires to obtain Multi-Family Housing Financing from the City for the purpose of financing the acquisition, rehabilitation and equipping of the Project, as further defined in **Exhibit A**), and to pay a portion of the costs of issuance and other costs incurred in connection therewith; and

**WHEREAS**, the Issuer will loan the proceeds of the Bonds to the Borrower by entering into a Loan Agreement dated as of \_\_\_\_\_ 1, 2024, by and among the Issuer, the Borrower, and the Trustee (the "**Loan Agreement**") and the Bonds shall be payable solely from the revenues received by the Issuer from the repayment of the loan of the proceeds of the Bonds to the Borrower (the "**Loan**") and from other revenues derived from the Loan and the Bonds; and

**WHEREAS**, the Bonds will be secured by this Indenture, and the Issuer is authorized to execute and deliver this Indenture and to do or cause to be done all acts provided or required herein to be performed on its part;

**WHEREAS**, all things necessary to make the Bonds, when authenticated by the Trustee and issued as in this Indenture provided, the valid, binding and legal limited obligations of the Issuer according to the import thereof, and to constitute this Indenture a valid assignment and pledge of the amounts assigned and pledged to the payment of the principal of, premium, if any, and interest on the Bonds and the creation, execution and delivery of this Indenture, and the creation, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

**NOW, THEREFORE**, that to secure the payment of Bond Service Charges (as defined herein) on the Bonds according to their true intent and meaning, to secure the performance and observance of all of the covenants, agreements, obligations and conditions contained therein and herein, and to declare the terms and conditions upon and subject to which the Bonds are and are intended to be issued, held, secured and enforced, and in consideration of the premises and the acceptance by the Trustee of the trusts created herein and of the purchase and acceptance of the Bonds by the Holders, and for other good and valuable consideration, the receipt of which is acknowledged, the Issuer has executed and delivered this Indenture and absolutely assigns hereby to the Trustee (except Reserved Rights), and to its successors in trust, and its and their assigns, all right, title and interest of the Issuer in and to:

#### **GRANTING CLAUSES**

For the equal and proportionate benefit, security and protection of the Bonds issued under and secured by this Indenture without privilege, priority or distinction as to the lien or otherwise of any of the Bonds over any of the others of the Bonds:

(i) the Revenues (as defined herein), including, without limitation, all Loan Payments (as defined herein), Eligible Funds (as defined herein) and other amounts receivable by or on behalf of the Issuer under the Loan Agreement in respect of repayment of the Loan,

(ii) the Special Funds (as defined herein), including all accounts in those Special Funds and all money deposited therein and the investment earnings on such money,

(iii) subject to the provisions of the Ordinance, all right, title and interest of the Issuer in the proceeds derived from the sale of the Bonds, and any securities in which money in the Special Funds are invested, and (except for money required to be rebated to the United States of America under the Code) the proceeds derived therefrom, and any and all other real or personal property of every name and nature from time to time hereafter by delivery or by writing of any kind pledged, assigned or transferred, as and for additional security hereunder by the Issuer or by anyone on its behalf, or with its written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms of this Indenture,

(iv) the Note (as defined herein), and

(v) the Loan Agreement, except for the Reserved Rights (the foregoing collectively referred to as the "**Trust Estate**").

**PROVIDED, HOWEVER, AND NOTWITHSTANDING THE FOREGOING, THE TRUST ESTATE SHALL NOT INCLUDE THE REBATE FUND OR ANY MONEYS OR INVESTMENTS REQUIRED TO BE DEPOSITED INTO THE REBATE FUND;**

**TO HAVE AND TO HOLD** unto the Trustee and its successors in that trust and its and their assigns forever;

**BUT IN TRUST, NEVERTHELESS**, and subject to the provisions hereof,

(a) except as provided otherwise herein, for the equal and proportionate benefit, security and protection of all present and future Holders of the Bonds issued or to be issued under and secured by this Indenture,

(b) for the enforcement of the payment of the principal of and interest on the Bonds, when payable, according to the true intent and meaning thereof and of this Indenture, and

(c) to secure the performance and observance of and compliance with the covenants, agreements, obligations, terms and conditions of this Indenture,

in each case, without preference, priority or distinction, as to lien or otherwise, of any one Bond over any other by reason of designation, number, date of the Bonds or of authorization, issuance, sale, execution, authentication, delivery or maturity thereof, or otherwise, so that each Bond and all Bonds shall have the same right, lien and privilege under this Indenture and shall be secured equally and ratably hereby, it being intended that the lien and security of this Indenture shall take effect from the date hereof, without regard to the date of the actual issue, sale or disposition of the Bonds, as though upon that date all of the Bonds were actually issued, sold and delivered to purchasers for value; provided, however, that

- (i) if the principal of the Bonds and the interest due or to become due thereon shall be well and truly paid, at the times and in the manner to which reference is made in the Bonds, according to the true intent and meaning thereof, or the Outstanding Bonds (as defined herein) shall have been paid and discharged in accordance with Article IX hereof,
- (ii) if all of the covenants, agreements, obligations, terms and conditions of the Issuer under this Indenture shall have been kept, performed and observed and there shall have been paid to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, and
- (iii) this Indenture and the rights assigned hereby shall cease, determine and be void, except as provided in Section 9.02 hereof with respect to the survival of certain provisions hereof; otherwise, this Indenture shall be and remain in full force and effect.

It is declared that all Bonds issued hereunder and secured hereby are to be issued, authenticated and delivered, and that the Trust Estate assigned hereby is to be dealt with and disposed of under, upon and subject to, the terms, conditions, stipulations, covenants, agreements, obligations, trusts, uses and purposes provided in this Indenture. The Issuer has agreed and covenanted, and agrees and covenants with the Trustee and with each and all Holders, as follows:

## ARTICLE 1 DEFINITIONS

**Section 1.01 Definitions.** The terms defined in this Section 1.01 or in the Recitals hereto (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section 1.01 or in the Recitals hereto.

*“Act of Bankruptcy”* means the filing of a petition in bankruptcy (or other commencement of a bankruptcy, insolvency or similar proceeding) by or against the Borrower under any applicable bankruptcy, insolvency, reorganization or similar law, as now or hereafter in effect.

*“Additional Payments”* means the amounts required to be paid by the Borrower pursuant to the provisions of Section 4.04 of the Loan Agreement.

*“Administrative Expenses”* means the Issuer Fee, the City Administrative Fee, the Ordinary Trustee Fees and Expenses and the Dissemination Agent Fee.

*“Affiliated Party”* of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” when used with respect to any specified Person means the power to direct the policies of such Person, directly or indirectly, whether through the power to appoint and remove its directors, the ownership of voting securities, by contract, or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

*“Authorized Borrower Representative”* means any person who, at any time and from time to time, is designated as the Borrower’s authorized representative by written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person and signed on behalf of the Borrower by or on behalf of any authorized general partner of the Borrower if the Borrower is a general or limited partnership, by any authorized managing member of the Borrower if the Borrower is a limited liability company, or by any authorized officer of the Borrower if the Borrower is a corporation, which certificate may designate an alternate or alternates. The Trustee may conclusively presume that a person designated in a written certificate filed with it as an Authorized Borrower Representative is an Authorized Borrower Representative until such time as the Borrower files with it (with a copy to the Issuer) a written certificate revoking such person’s authority to act in such capacity.

*“Authorized Denomination”* means \$5,000, or any integral multiple of \$1,000 in excess thereof.

*“Authorized Issuer Representative”* means any person or persons specifically authorized by the Ordinance to take the action intended. The identity of each Authorized Issuer Representative shall be evidenced by a certificate containing the specimen signature of such person and such person’s telephone number and signed on behalf of the Issuer.

*“Bankruptcy Code”* means Title 11 of the United States Code entitled “Bankruptcy,” as in effect now and in the future, or any successor statute.

*“Beneficial Owner”* means with respect to the Bonds, the Person owning the Beneficial Ownership Interest therein.

*“Beneficial Ownership Interest”* means the right to receive payments and notices with respect to the Bonds held in a Book-Entry System.

*“Bond Counsel”* means Chapman and Cutler LLP, or any attorney at law or firm of attorneys, of nationally recognized standing in matters pertaining to the federal tax exemption of interest on bonds issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state of the United States of America or the District of Columbia.

*“Bond Fund”* means the Bond Fund created in Section 4.01 hereof.

*“Bond Payment Date”* means each Interest Payment Date and any other date Bond Service Charges on the Bonds are due, whether at maturity, upon redemption, Mandatory Tender or acceleration or otherwise.

*“Bond Purchase Agreement”* means the Bond Purchase Agreement, dated \_\_\_\_\_, 2024, among the Underwriter, the Issuer and the Borrower.

*“Bond Service Charges”* means, for any period or payable at any time, the principal of and interest on the Bonds for that period or payable at that time whether due at maturity or upon redemption, Mandatory Tender or acceleration.

*“Bond Year”* means each annual period of twelve months ending on May 1 as applicable; provided, however, that the first annual period commences on the date of the original issuance and delivery of the Bonds and ends on May 1, 2024 and the last of which ends on the maturity of the Bonds.

*“Bonds”* means the Issuer’s Multi-Family Housing Revenue Bonds (Prairie District Apartments Project), Series 2024 in the aggregate principal amount of \$\_\_\_\_\_ issued under and secured by this Indenture.

*“Book-Entry Form”* or *“Book-Entry System”* means, with respect to the Bonds, a form or system, as applicable, under which (a) physical Bond certificates in fully registered form are issued only to a Securities Depository or its nominee, with the physical Bond certificates “immobilized” in the custody of the Securities Depository and (b) the ownership of book-entry interests in Bonds and Bond Service Charges thereon may be transferred only through a book-entry made by others than the Issuer or the Trustee. The records maintained by others than the Issuer or the Trustee constitute the written record that identifies the owners, and records the transfer, of book-entry interests in those Bonds and Bond Service Charges thereon.

*“Borrower”* means MHL 2 Prairie District Apartments-Wabash LP, a limited partnership organized under the laws of the State of Illinois, and its successors and assigns.

*“Borrower Documents”* when used with respect to the Borrower, means all documents and agreements executed and delivered by the Borrower as security for or in connection with the issuance of the Bonds, including but not limited to, the Financing Documents and the Mortgage Loan Documents. The Borrower Documents do not include any documents or agreements to which the Borrower is not a direct party, including the Bonds or this Indenture.

*“Business Day”* means any day of the year on which (i) banks located in the City of Chicago and the city in which the principal office of the Trustee is located, are not required or authorized to remain closed and (ii) The New York Stock Exchange is not closed.

*“Cash Flow Projection”* means a written cash flow projection prepared by an Independent firm of certified public accountants, a financial advisory firm, a law firm or other Independent third party qualified and experienced in the preparation of cash flow projections for structured finance transactions similar to the Bonds, designated by the Borrower and acceptable to the Rating Agency, establishing the sufficiency of (a) the amount on deposit in the Special Funds, (b) projected investment income to accrue on amounts on deposit in the Special Funds during the applicable period and (c) any additional Eligible Funds delivered to the Trustee by or on behalf of the Borrower to pay Bond Service Charges and the Administrative Expenses, in each instance, when due and payable, including, but not limited to, any cash flow projection prepared in

connection with (i) the initial issuance and delivery of the Bonds, (ii) a proposed remarketing of the Bonds, as provided in Section 3.07 hereof, (iii) the release of Eligible Funds from the Negative Arbitrage Account, as provided in Section 4.03 hereof, and (iv) the purchase, sale or exchange of Eligible Investments as provided in Section 4.10 hereof.

*“Certificate of the Issuer,” “Statement of the Issuer,” “Request of the Issuer” and “Requisition of the Issuer”* mean, respectively, a written certificate, statement, request or requisition, with or without the seal of the Issuer, signed in the name of the Issuer by an Authorized Issuer Representative. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and if so combined shall be read and construed as a single instrument.

*“City Administrative Fee”* means the City Administrative Fee to be paid by the Trustee on behalf of the Borrower to the Issuer, described in Section 4.15 of this Indenture.

*“Closing Date”* means the initial date of delivery of the Bonds in exchange for the purchase price of the Bonds sized as set forth in Section 2.13(b).

*“Code”* means the Internal Revenue Code of 1986, and any regulations thereunder applicable to the Bonds.

*“Collateral Fund”* means the Collateral Fund created in Section 4.01 hereof.

*“Completion Certificate”* means the certificate attached as Exhibit C to the Loan Agreement.

*“Completion Date”* means the date of the completion of the construction of the Project, as that date shall be certified as provided in Section 3.09 of the Loan Agreement.

*“Confirmation of Rating”* means a written confirmation, obtained prior to the event or action under scrutiny, from the Rating Agency to the effect that, following the proposed action or event under scrutiny at the time such confirmation is sought, the rating of the Rating Agency with respect to all Bonds then Outstanding and then rated by the Rating Agency will not be downgraded, suspended, qualified or withdrawn as a result of such action or event.

*“Construction Lender”* means \_\_\_\_\_.

*“Construction Loan”* means a loan made by the Construction Lender to the Borrower in the principal amount of \$\_\_\_\_\_ with respect to the Project.

*“Continuing Disclosure Agreement”* means the Continuing Disclosure Agreement, dated the date of issuance of the Bonds, between the Borrower and the Trustee, as dissemination agent, as the same may amended, restated or supplemented from time to time.

*“Controlling Holders”* means, in the case of consent or direction to be given hereunder, the Holders of the majority in aggregate principal amount of the Outstanding Bonds.

*“Costs of Issuance”* means the “issuance costs” with respect to the Bonds within the meaning of Section 147(g) of the Code.

*“Costs of Issuance Fund”* means the Costs of Issuance Fund created in Section 4.01 hereof.

*“Designated Office of the Trustee”* means the office of the Trustee at the Notice Address set forth in this Section 1.01 or, solely for purposes of presentation for transfer, payment or exchange of the Bonds, the designated corporate trust operations or agency office of the Trustee in Seattle, Washington, or at such other address as may be specified in writing by the Trustee.

*“Disbursement Agreement”* means the Loan Disbursement Agreement dated as of the Closing Date, by and among the \_\_\_\_\_, the Issuer, the Subordinate Lender, the trustee, Investor Limited Partner, [Title Company] and the Borrower, relating to the funding of the Mortgage Loan by the Lender.

*“Dissemination Agent”* means the Trustee, or any successor, as Dissemination Agent under the Continuing Disclosure Agreement.

*“Dissemination Agent Fee”* means the fee payable to the Dissemination Agent as compensation for its services and expenses in performing its obligations under the Continuing Disclosure Agreement; provided, however, the amount of the Dissemination Agent Fee payable under this Indenture is limited to money withdrawn from the Expense Fund and the Borrower will be responsible to pay the remaining amount of the Dissemination Agent Fee pursuant to Section 4.04 of the Loan Agreement.

*“DTC”* means The Depository Trust Company (a limited purpose trust company), New York, New York, and its successors or assigns.

*“DTC Participant”* means any participant contracting with DTC under its book-entry system and includes securities brokers and dealers, banks and trust companies and clearing corporations.

*“Electronic Means”* means e-mail, facsimile, or any other electronic means of communication approved in writing by the Issuer, Trustee and Underwriter.

*“Eligible Funds”* means, as of any date of determination, any of:

- (a) the proceeds of the Bonds (including any additional amount paid to the Trustee as the purchase price thereof by the Underwriter);
- (b) money received by the Trustee representing advances to the Borrower of proceeds of the [Mortgage Loan,] [Construction Loan,] [Equity Bridge Loan,] [IHDA Trust Fund Loan,] and proceeds of the [Subordinate Loan];
- (c) amounts drawn by the Trustee on a letter of credit;
- (d) remarketing proceeds of the Bonds (including any additional amount paid to the Trustee as the remarketing price thereof by the Remarketing Agent) received from the Remarketing Agent or any purchaser of Bonds (other than funds provided by the Borrower, the Issuer or any Affiliated Party of either the Borrower or the Issuer);

- (e) any other amounts, including the proceeds of refunding bonds, for which the Trustee has received an Opinion of Counsel (which opinion may assume that no Holder or Beneficial Owner of Bonds is an "insider" within the meaning of the Bankruptcy Code) to the effect that (I) the use of such amounts to make payments on the Bonds would not violate Section 362(a) of the Bankruptcy Code or that relief from the automatic stay provisions of such Section 362(a) would be available from the bankruptcy court and (II) payments of such amounts to Holders would not be avoidable as preferential payments under Section 547 or 550 of the Bankruptcy Code should the Issuer or the Borrower become a debtor in proceedings commenced under the Bankruptcy Code;
- (f) any payments made by the Borrower and held by the Trustee for a continuous period of 123 days, provided that no Act of Bankruptcy has occurred during such period; and
- (g) investment income derived from the investment of the money described in (a) through (f) above.

"*Eligible Investments*" means, subject to the provisions of Section 4.10 hereof and to the extent authorized under State law any of the following obligations which mature (or are redeemable at the option of the Trustee) at such time or times as to enable disbursements to be made from the fund in which such investment is held or allocated in accordance with the terms of this Indenture:

(a) Government Obligations; and

(b) Shares or units in any money market mutual fund rated "Aaa-m" by Moody's (or the equivalent Highest Rating Category given by the Rating Agency for that general category of security) including mutual funds of the Trustee or its affiliates or for which the Trustee or an affiliate thereof serves as investment advisor or provides other services to such mutual fund and receives reasonable compensation therefor that are "registered under the Investment Company Act of 1940, as amended, whose investment portfolio consists solely of direct obligations of the government of the United States of America.

"*Equity Bridge Lender*" means \_\_\_\_\_, as maker of an equity bridge loan to the Borrower.

"*Equity Bridge Loan*" means the equity bridge loan from the Equity Bridge Lender to the Borrower in the principal amount of \$\_\_\_\_\_\*.

"*Event of Default*" means (a) with respect to this Indenture, any of the events described as an Event of Default in Section 6.01 hereof and (b) with respect to the Loan Agreement, any of the events described as an Event of Default in Section 8.01 of the Loan Agreement.

"*Expense Fund*" means the Expense Fund created in Section 4.01 hereof.

"*Extension Payment*" means the amount due, if any, to provide adequate additional funds for the payment of Bond Service Charges and Administrative Expenses during a Remarketing Period in connection with the change or extension of the Mandatory Tender Date pursuant to

Section 3.07 hereof, and (a) which shall be determined by a Cash Flow Projection approved in writing by the Rating Agency and (b) must consist of Eligible Funds other than the proceeds of the Bonds.

*"Federal Tax Status"* means, as to the Bonds, the status of the interest on the Bonds as excludable from gross income for federal income tax purposes of the Holders of the Bonds (except on Bonds while held by a substantial user or related person, each as defined in the Code).

*"Financing Documents"* means this Indenture, the Bonds, the Loan Agreement, the Note, the Disbursement Agreement, the Tax Compliance Agreement, the Land Use Restriction Agreement, the Bond Purchase Agreement, the Continuing Disclosure Agreement, the Remarketing Agreement and any other instrument or document executed in connection with the Bonds, together with all modifications, extensions, renewals and replacements thereof.

*"Force Majeure"* means any of the causes, circumstances or events described as constituting Force Majeure in Section 8.01 of the Loan Agreement.

*"General Partner"* means MHL 2 Prairie District Apartments-Wabash GP LLC, an Illinois limited liability company.

*"Government Obligations"* means (i) noncallable, non-redeemable direct obligations of the United States of America for the full and timely payment of which the full faith and credit of the United States of America is pledged, and (ii) obligations issued by a Person controlled or supervised by and acting as an instrumentality of the United States of America, the full and timely payment of the principal of, premium, if any, and interest on which is fully guaranteed as a full faith and credit obligation of the United States of America (including any securities described in (i) or (ii) issued or held in book-entry form on the books of the Department of the Treasury of the United States of America), which obligations, in either case, are not subject to redemption prior to maturity at less than par at the option of anyone other than the holder thereof.

*"Highest Rating Category"* means, with respect to an Eligible Investment, that the Eligible Investment is rated by a Rating Agency in the highest rating given by that Rating Agency for that Rating Category, provided that such rating shall include but not be below "Aaa" or "Aaa/VMIG 1" if rated by Moody's or "A-1+" or "AA+" if rated by S&P.

*"Holder"* or *"Bondholder"* when used with respect to any Bond, means the Person in whose name such Bond is registered.

*"IHDA Trust Fund Loan"* means a loan made by the Illinois Housing Development Authority to the Borrower in the principal amount of \$\_\_\_\_\_ \* with respect to the Project.

*"Indenture"* means this Indenture, dated as of \_\_\_\_\_ 1, 2024, between the Issuer and the Trustee, as amended or supplemented from time to time.

*"Independent"* when used with respect to a specified Person means such Person has no specific financial interest direct or indirect in the Borrower or any Affiliate of the Borrower and in the case of an individual is not a director, trustee, officer, partner, member or employee of the Borrower or any Affiliate of the Borrower and in the case of an entity, does not have a partner, director, trustee, officer, member or employee who is a director, trustee, partner, member, officer or employee of any partner or member of the Borrower or any Affiliate of the Borrower.

*"Inducement Ordinance"* means the Inducement Ordinance adopted by the City Council of the Issuer on January \_\_\_\_, 2023 with respect to the Project and the Bonds.

*"Initial Borrower Deposit"* means funds in the amount of \$0 provided by or on behalf of the Borrower, which is to be deposited as provided in Section 4.02(b) hereof.

*"Initial Interest Rate"* means \_\_\_\_% per annum.

*"Initial Mandatory Tender Date"* means \_\_\_\_\_ 1, 2026.

*"Initial Remarketing Date"* means the Initial Mandatory Tender Date, but only if the conditions for remarketing the Bonds on such date as provided in Section 3.07 hereof are satisfied.

*"Interest Payment Date"* means (a) \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year beginning \_\_\_\_\_ 1, 2024, (b) each Redemption Date and (c) each Mandatory Tender Date. In the case of insufficient funds to pay the purchase price on the Bonds following Mandatory Tender on the Initial Mandatory Tender Date, "Interest Payment Date" also means the first Business Day of each month as provided in the second paragraph of Section 2.02 hereof. In the case of a payment of defaulted interest, "Interest Payment Date" also means the date of such payment established pursuant to Section 2.03 hereof.

*"Interest Period"* means, initially, the period from the Closing Date to and including \_\_\_\_\_ 1, 2024, and thereafter, the period commencing on each succeeding Interest Payment Date and ending on the last day of the month preceding the next Interest Payment Date.

*"Interest Rate"* means the Initial Interest Rate to but not including the Initial Mandatory Tender Date, and thereafter the applicable Remarketing Rate.

*"Interest Rate for Advances"* means the rate per annum which is two percent plus that interest rate announced by the Trustee in its lending capacity as a bank as its "Prime Rate" or its "Base Rate."

*"Investor Limited Partner"* means \_\_\_\_\_ Limited Partnership, a \_\_\_\_\_ limited partnership, and its permitted successors and assigns.

*"Issuer"* means the City of Chicago, a municipality and home rule unit of government duly organized and validly existing under the Constitution and the laws of the State.

*"Issuer Documents"* means the Financing Documents to which the Issuer is a party.

*"Issuer Fee"* means the amount of \$\_\_\_\_\_, which represents 1.5% of the par amount of the Bonds, paid by the Trustee on behalf of the Borrower to the Issuer on the Closing Date in connection with, and as consideration for, the issuance of the Bonds.

*"Land Use Restriction Agreement"* means the Land Use Restriction Agreement dated as of \_\_\_\_\_ 1, 2024, between the Issuer and the Borrower with respect to the Project and the Bonds.

*"Lender"* means [CIBC]., an \_\_\_\_\_ corporation.

*"Lender Funds"* means \_\_\_\_\_.

*"Loan"* means the loan by the Issuer to the Borrower of the proceeds received from the sale of the Bonds.

*"Loan Agreement"* means the Loan Agreement dated as of the date hereof among the Issuer, the Borrower and the Trustee, as the same may be amended, restated or supplemented from time to time.

*"Loan Payments"* means the amounts required to be paid by the Borrower in repayment of the Loan pursuant to the provisions of the Note and Section 4.01 of the Loan Agreement.

*"Local Time"* means central time (daylight or standard, as applicable) in Chicago, Illinois.

*"Mandatory Tender"* means a tender of Bonds required by Section 3.05 hereof.

*"Mandatory Tender Date"* means (a) the Initial Mandatory Tender Date and (b) if the Bonds Outstanding on the Initial Mandatory Tender Date or on any subsequent Mandatory Tender Date are remarketed pursuant to Section 3.07 hereof for a Remarketing Period that does not extend to the final maturity of the Bonds, the day after the last day of the Remarketing Period.

*"Maturity Date"* means \_\_\_\_\_ 1, 202\_\_.

*"Maximum Interest Rate"* means the interest rate equal to the lesser of: (a) 12% per annum, or (b) the maximum interest rate per annum permitted by applicable State law.

*"Mortgage Loan"* means the mortgage loan to be made from the Lender to the Borrower in the principal amount of \$\_\_\_\_\_ with respect to the Project, as described and provided for in the Mortgage Loan Documents.

*"Mortgage Loan Documents"* means the mortgage, mortgage note, and all other documents required by the Lender in connection with the Mortgage Loan.

*"Negative Arbitrage Account"* means the Negative Arbitrage Account of the Bond Fund created in Section 4.01 hereof.

*"Note"* means the promissory note of the Borrower, dated as of even date with the Bonds initially issued, in the form attached as Exhibit A to the Loan Agreement and in the principal amount of \$\_\_\_\_\_, evidencing the obligation of the Borrower to make Loan Payments.

*"Notice Address"* means with respect to each of the Persons listed below the address set forth below until such time as such Person shall have notified each of the other Persons listed below of a new Notice Address.

If to the Issuer:

City of Chicago  
Department of Housing  
City Hall  
121 N. LaSalle Street, Room 1006  
Chicago, Illinois 60602

With copies to:

City of Chicago  
Office of the Corporation Counsel  
City Hall - Room 600  
121 North LaSalle Street  
Chicago, Illinois 60602  
Attention: Finance and Economic Development  
Division

and to:

City of Chicago  
Department of Finance  
City Hall  
121 N. LaSalle Street, Suite 600  
Chicago, Illinois 60602  
Attention: Comptroller

If to the Borrower:

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

With a copy to:

Applegate & Thorne-Thomsen, P.C.  
425 S. Financial Place, Suite 1900  
Chicago, IL 60605  
Attention: Bennett P. Applegate

If to the Lender:

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

With a copy to:

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

If to the Trustee:

Zions Bancorporation, National Association  
601 Union Street, Suite 3600  
Seattle, Washington 98101  
Attn: Corporate Trust

If to the Remarketing Agent: Stifel, Nicolaus & Company, Incorporated  
 10500 NE 8<sup>th</sup> Street  
 Suite 1410  
 Bellevue, Washington 98004  
 Attention: David Dill

If to the Investor Limited Partner:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Attention: \_\_\_\_\_

With a copy to:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Attention: \_\_\_\_\_

If to the Rating Agency: Moody's Investors Service, Inc.  
 7 World Trade Center  
 250 Greenwich Street, 16<sup>th</sup> Floor  
 New York, New York 10007  
 Attention: Public Finance Group – Housing Team  
 Electronic notices shall be delivered to:  
Housing@moodys.com

*"Notice by Mail"* or *"notice"* of any action or condition *"by Mail"* shall mean a written notice meeting the requirements of this Indenture mailed by first-class mail to the Holders of specified registered Bonds at the addresses shown in the Bond Register.

*"Optional Redemption Date"* means the date on which an optional redemption of the Bonds may be exercised, as provided in Section 3.01(a) of this Indenture.

*"Ordinance"* means the ordinance adopted by the City Council of the Issuer on \_\_\_\_\_, 2024, authorizing the issuance, sale and delivery of the Bonds.

*"Ordinary Trustee Fees and Expenses"* means an upfront fee in the amount of \$5,000 payable on the Closing Date, payable from funds of the Borrower.

*"Organizational Documents"* means the Borrower's Amended and Restated Agreement of Limited Partnership dated as of \_\_\_\_\_ 1, 2024.

*"Outstanding"* when used with respect to the Bonds, means all Bonds theretofore authenticated and delivered under this Indenture, except:

(a) Bonds theretofore cancelled by the Trustee or theretofore delivered to the Trustee for cancellation;

(b) Bonds for the payment or redemption of which money or obligations shall have been theretofore deposited with the Trustee in accordance with Article IX hereof;

(c) Bonds paid pursuant to Section 2.03 hereof; and

(d) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered under this Indenture.

*"Participant"* when used with respect to any Securities Depository means any participant of such Securities Depository.

*"Paying Agent"* or *"paying agent"* means the Trustee and its successors designated pursuant to this Indenture.

*"Person"* or *"Persons"* means one or more natural persons, firms, associations, partnerships, corporations, limited liability companies or public bodies.

*"Plans and Specifications"* means the plans and specifications describing the Project as now prepared and as they may be changed, revised and updated from time to time as provided in the Loan Agreement.

*"Predecessor Bond"* of any particular Bond means every previous Bond evidencing all or a portion of the same debt as that evidenced by the particular Bond. For the purposes of this definition, any Bond authenticated and delivered under Section 2.09 hereof in lieu of a lost, stolen or destroyed Bond shall, except as otherwise provided in Section 2.09, be deemed to evidence the same debt as the lost, stolen or destroyed Bond.

*"Project"* means the acquisition, rehabilitation and equipping of a six-story building located generally at 1801 S. Wabash Avenue in Chicago, Illinois, to contain 100 studios affordable for rental to households earning at or below 80 percent of the area median income with at least 40 percent or more of such studios occupied by households earning 60 percent or less of the area median income, as well as a ground floor devoted to residential amenities and community space, to be known as Prairie District Apartments.

*"Project Costs"* means, to the extent authorized by the Code, any and all costs incurred by the Borrower with respect to the acquisition and construction of the Project, including, without limitation, costs for site preparation, the planning of housing and related facilities and improvements, the acquisition of property, the removal, demolition or rehabilitation of existing structures, the construction of housing and related facilities and improvements, and all other work in connection therewith, and all costs of financing, including, without limitation, the cost of consultant, accounting and legal services, other expenses necessary or incident to determining the feasibility of the Project, contractors' and Borrower's overhead and supervisors' fees and costs directly allocable to the Project, administrative and other expenses necessary or incident to the Project and the financing thereof (including reimbursement to any municipality, county or entity for expenditures made for the Project), and interest accrued during construction and prior to the Completion Date.

*"Project Fund"* means the Project Fund created in Section 4.01 hereof

*"Qualified Project Costs"* means Project Costs (excluding Costs of Issuance) paid (i) after the date which is 60 days prior to the adoption of the Inducement Ordinance or (ii) prior to such date which are nevertheless eligible for reimbursement under the Code, which either constitute land or property of a character subject to the allowance for depreciation under Section 167 of the Code or are chargeable to a capital account with respect to the Project for federal income tax and

financial accounting purposes, or would be so chargeable either with a proper election by the Borrower or but for the proper election by the Borrower to deduct those amounts within the meaning of Code Regulation 1.103-8(a)(1)(i); provided, however, that only such portion of interest accrued during construction of the Project shall constitute a Qualified Project Cost as bears the same ratio to all such interest as the Qualified Project Costs bear to all Project Costs; and provided, further, that interest accruing after the Completion Date shall not be a Qualified Project Cost; and provided still further that, if any portion of the Project is being constructed by an Affiliated Party (whether as a general contractor or a subcontractor), "Qualified Project Costs" shall include only (a) the actual out-of-pocket costs incurred by such Affiliated Party in constructing the Project (or any portion thereof), (b) any reasonable fees for supervisory services actually rendered by the Affiliated Party and (c) any overhead expenses incurred by the Affiliated Party which are directly attributable to the work performed on the Project, and shall not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of Section 1504 of the Code) participating in the construction of the Project or payments received by such Affiliated Party due to early completion of the Project (or any portion thereof).

*"Rating Agency"* means Moody's, S&P or any other nationally recognized securities rating agency rating the Bonds, or such rating agency's successors or assigns, and initially means Moody's so long as Moody's is rating the Bonds'.

*"Rating Category"* means one of the rating categories of the Rating Agency for the specific type and duration of the applicable Eligible Investment.

*"Rebate Amount"* means the amount required to be rebated to the United States pursuant to Section 148 of the Code.

*"Rebate Analyst"* means a certified public accountant, financial analyst or attorney, or any firm of the foregoing, or a financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code and selected by the Issuer at the expense of the Borrower to calculate the Rebate Amount or, in the event that the Issuer fails to so select a Rebate Analyst and the Borrower fails to pay such fee one month prior to any date on which calculations are required to be made, any qualified person retained by the Trustee to calculate the Rebate Amount. The initial Rebate Analyst shall be Tiber Hudson LLC.

*"Rebate Analyst Fee"* means the fee of the Rebate Analyst in an amount to be paid from moneys in the Rebate Fund and other funds provided by the Borrower for such purpose.

*"Rebate Fund"* means the Rebate Fund created in Section 4.01 hereof.

*"Redemption Date"* means any date on which Bonds are redeemed in accordance with this Indenture, including (a) the Maturity Date, (b) the date of acceleration of the Bonds and (c) pursuant to Sections 3.01 and 3.05 hereof.

*"Register"* means the books kept and maintained by the Trustee for registration and transfer of Bonds pursuant to Section 2.10 hereof.

*"Regular Record Date"* means, with respect to any Bond, the fifteenth day of the calendar month next preceding an Interest Payment Date.

*"Rehabilitation Expenditures"* shall mean, unless otherwise provided in Section 147(d)(3) of the Code and the Regulations, any amount, whether or not financed with the net proceeds of the Bonds, that is:

(a) properly chargeable to the capital account of the Project;

(b) incurred by the Borrower, or by the seller of such building pursuant to applicable contract of sale, after the inducement date and prior to the date that is 2 years after the later of the issue date or the acquisition of such building by the Borrower;

(c) incurred for property (or additions or improvements to property) in connection with the rehabilitation of a building comprising a part of the Project and, in the case of an integrated operation contained in such a building before its acquisition by the Borrower, the rehabilitation of existing equipment in such building or the replacement of such equipment with equipment having substantially the same function; and

(d) not an expenditure described in Section 47(c)(2)(B) of the Code.

*"Remarketing Agent"* means Stifel, Nicolaus & Company, Incorporated or any successor as Remarketing Agent designated in accordance with Section 7.17 hereof.

*"Remarketing Agent's Fee"* means the fee of the Remarketing Agent for its remarketing services.

*"Remarketing Agreement"* means the Remarketing Agreement, dated as of \_\_\_\_\_ 1, 2024, by and between the Borrower and the Remarketing Agent, as amended, supplemented or restated from time to time, or any agreement entered into in substitution therefor.

*"Remarketing Date"* means the Initial Remarketing Date and, if the Bonds Outstanding on such date or on any subsequent Remarketing Date are remarketed pursuant to Section 3.07 for a Remarketing Period that does not extend to the final maturity of the Bonds, the day after the last day of the Remarketing Period.

*"Remarketing Expenses"* means the costs and expenses, other than Administrative Expenses, incurred by the Trustee and its counsel, the Remarketing Agent and its counsel, the Issuer and its counsel, and Bond Counsel in connection with the remarketing of the Bonds, including bond printing and registration costs, costs of funds advanced by the Remarketing Agent, registration and filing fees, rating agency fees, the costs of any cash flow verification reports, and other costs and expenses incurred in connection with or properly attributable to the remarketing of Bonds as certified to the Trustee by the Remarketing Agent in writing.

*"Remarketing Notice Parties"* means the Borrower, the Issuer, the Trustee, the Remarketing Agent and the Lender.

*"Remarketing Period"* means the period beginning on a Remarketing Date and ending on the last day of the term for which Bonds are remarketed pursuant to Section 3.07 or the final Maturity Date of the Bonds, as applicable.

*"Remarketing Proceeds Account"* means the Remarketing Proceeds Account of the Bond Fund created in Section 4.01 hereof.

*"Remarketing Rate"* means the interest rate or rates established pursuant to the third paragraph of Section 2.02 and borne by the Bonds then Outstanding from and including each Remarketing Date to, but not including, the next succeeding Remarketing Date or the final Maturity Date of the Bonds, as applicable.

*"Reserved Rights"* of the Issuer means (a) the right of the Issuer to amounts payable to it pursuant to Section 4.04 of the Loan Agreement, (b) all rights which the Issuer or its members, directors, officers, officials, agents or employees may have under this Indenture and the Financing Documents to indemnification by the Borrower and by any other persons and to payments for expenses incurred by the Issuer itself, or its members, directors, officers, officials, agents or employees, (c) the right of the Issuer to receive notices, reports or other information, make determinations and grant approvals hereunder and under the other Financing Documents, (d) all rights of the Issuer to enforce the representations, warranties, covenants and agreements of the Borrower pertaining in any manner or way, directly or indirectly, to the requirements of the Act or of the Issuer, and set forth in any of the Financing Documents or in any other certificate or agreement executed by the Borrower, (e) all inspection rights of the Issuer, (f) all rights of the Issuer in connection with any amendment to or modification of the Financing Documents, and (g) all enforcement remedies with respect to the foregoing.

*"Revenues"* means (a) the Loan Payments, (b) the Eligible Funds, (c) all other money received or to be received by the Trustee in respect of repayment of the Loan, including without limitation, all money and investments in the Bond Fund, (d) any money and investments in the Project Fund and the Collateral Fund, and (e) all income and profit from the investment of the foregoing money. The term *"Revenues"* does not include any money or investments in the Rebate Fund.

*"Securities Depository"* means any securities depository registered as a clearing agency with the Securities and Exchange Commission pursuant to Section 17A of the Securities Exchange Act of 1934, as amended, and appointed as a securities depository for the Bonds.

*"Special Funds"* means, collectively, the Bond Fund, the Project Fund and the Collateral Fund, and any accounts therein, all as created in this Indenture.

*"Special Record Date"* means the date and time established by the Trustee for the determination of which Holders shall be entitled to receive overdue interest or principal on the Bonds pursuant to Section 2.03 hereof.

*"State"* means the State of Illinois.

*"Subordinate Lender"* means \_\_\_\_\_.

*"Subordinate Loan"* means \_\_\_\_\_.

*"Supplemental Indenture"* means a supplement to this Indenture being authorized and executed pursuant to Section 8.01 or Section 8.02 hereof.

*"Tax Compliance Agreement"* means the Arbitrage and Tax Compliance Agreement, dated the Closing Date, between the Borrower and the Issuer relating to the Bonds.

*"Tendered Bond"* means any Bond which has been tendered for purchase pursuant to a Mandatory Tender.

“*Trust Estate*” means the property rights, money, securities and other amounts pledged and assigned pursuant to the Granting Clauses of this Indenture.

“*Trustee*” means Zions Bancorporation, National Association, a national banking association, until a successor Trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter, “Trustee” shall mean the successor Trustee.

“*Undelivered Bond*” means any Bond that is required under this Indenture to be delivered to the Remarketing Agent or the Trustee for purchase on a Mandatory Tender Date but that has not been received on the date such Bond is required to be so delivered.

“*Underwriter*” means Stifel, Nicolaus & Company, Incorporated, a Missouri corporation.

**Section 1.02 Interpretation.** Reference to Articles, Sections, and other subdivisions are to the designated Articles, Sections, and other subdivisions of this Indenture. The headings of this Indenture are for convenience only and do not define or limit the provisions hereof. Words of any gender shall be deemed and construed to include correlative words of the other genders. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise indicate.

## ARTICLE 2 THE BONDS

**Section 2.01 Issuance of Bonds.** The Bonds shall be issued in the aggregate principal amount of \$\_\_\_\_\_ ; shall be designated “Multi-Family Housing Revenue Bonds (Prairie District Apartments Project), Series 2024”; and shall be in the Authorized Denominations requested by the Holder (*provided, however*, that each Bond shall have only one principal maturity date, unless the Trustee shall be directed in writing to authenticate and deliver a Bond of more than one maturity). Unless the Issuer shall otherwise direct the Trustee in writing, the Bonds shall be numbered consecutively from R-1 upwards.

Each Bond shall be (i) substantially in the form attached as *Exhibit A* to this Indenture, (ii) dated \_\_\_\_\_, (iii) issued only as a fully registered bond, and, except as provided in Section 2.10 hereof, the Holder of a Bond shall be regarded as the absolute owner thereof for all purposes of this Indenture.

**Section 2.02 Maturity and Interest.** The Bonds shall bear interest on the principal amount Outstanding from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or provided for, from their date of initial delivery, payable on each Interest Payment Date. The Bonds shall bear interest for each Interest Period at the Interest Rate all as more specifically set forth hereinafter. Interest on the Bonds shall be calculated on the basis of a 360-day year consisting of twelve 30-day months. The Bonds shall mature on the Maturity Date, subject to prior redemption as set forth in Section 3.01 hereof and subject to Mandatory Tender for purchase as set forth in Section 3.05 hereof.

From the date of their initial delivery to, but not including, the Initial Mandatory Tender Date, the interest rate on the Bonds shall be the Initial Interest Rate. On the Initial Mandatory Tender Date, the Bonds shall be subject to Mandatory Tender pursuant to Section 3.05 hereof. If insufficient funds are available to pay the purchase price on the Bonds following such Mandatory Tender on the Initial Mandatory Tender Date, the Bonds shall be redeemed in accordance with the provisions of Section 3.01(c) hereof.

The Remarketing Agent shall establish the interest rate on the Bonds Outstanding for each Remarketing Period at the Remarketing Rate in accordance with this Section 2.02. Not less than ten (10) Business Days preceding each Remarketing Date, the Remarketing Agent, taking into consideration prevailing market conditions, shall, using its best professional judgment, determine the minimum rate(s) of interest which, if borne by the Bonds then Outstanding for the Remarketing Period specified by the Remarketing Agent at the direction of the Borrower as provided in Section 3.05 hereof, would enable such Bonds to be remarketed at a price equal to 100% of the principal amount of such Bonds that would not exceed the Maximum Interest Rate. The rate of interest determined in accordance with the previous sentence shall be the Remarketing Rate for the specified Remarketing Period; provided that if the rate of interest so determined for such period would exceed the Maximum Interest Rate, the Bonds Outstanding shall be remarketed for the longest Remarketing Period for which the minimum rate of interest that would enable such Bonds to be remarketed at a price equal to 100% of the principal amount of such Bonds would not exceed the Maximum Interest Rate. Notwithstanding the foregoing, if the rate of interest so determined for any Remarketing Period would exceed the Maximum Interest Rate, the Bonds Outstanding shall not be remarketed and shall be redeemed from funds available to pay the tender price thereof in accordance with Section 3.05(e) hereof.

The Remarketing Agent shall, upon determination of the Remarketing Rate and Remarketing Period, immediately (and in no event later than the Business Day following the day on which the Remarketing Agent makes its determination of the Remarketing Rate and the Remarketing Period) give notice of its determination by telephone or electronic mail, promptly confirmed in writing, to the Trustee, the Issuer and the Borrower. The Remarketing Rate and the Remarketing Period shall be conclusive and binding upon actual receipt thereof by the Trustee, the Issuer, the Borrower and the Holders for the purposes of this Indenture.

**Section 2.03 Payment and Ownership of Bonds.** To the extent provided in and except as otherwise permitted by this Indenture, the Bonds shall be special limited obligations of the Issuer and the Bond Service Charges thereon shall be payable equally and ratably solely from and secured solely by (a) the Revenues, including but not limited to money and investments in the Special Funds, (b) the assignment of Revenues hereunder and by this Indenture, and (c) the Trust Estate. Notwithstanding anything herein contained to the contrary, any obligation which the Issuer may incur under this Indenture or under any instrument executed in connection herewith which shall entail the expenditure of money shall not be a general obligation of the Issuer but shall be a limited obligation payable solely from amounts assigned to the Trustee pursuant to this Indenture.

Bond Service Charges shall be payable in lawful money of the United States of America without deduction for the services of the Trustee. Subject to the provisions of Section 2.12 hereof, (a) the principal of any Bond shall be payable when due to a Holder by the Trustee, and (b) interest on any Bond shall be paid on each Interest Payment Date by check which the Trustee shall cause to be mailed on that date to the Person in whose name the Bond (or one or more Predecessor Bonds) is registered at the close of business on the Regular Record Date applicable to that Interest Payment Date on the Register at the address appearing therein.

If and to the extent, however, that the Issuer shall fail to make payment or provision for payment of interest on any Bond on any Interest Payment Date, that interest shall cease to be payable to the Person who was the Holder of that Bond (or of one or more Predecessor Bonds) as of the applicable Regular Record Date. In that event, except as provided below in this Section, when money becomes available for payment of the interest, (a) the Trustee shall, pursuant to Section 6.06(d) hereof, establish a Special Record Date for the payment of that interest which

shall be not more than 15 nor fewer than 10 days prior to the date of the proposed payment, and (b) the Trustee shall cause notice of the proposed payment and of the Special Record Date to be mailed by first-class mail, postage prepaid, to each Holder at its address as it appears on the Register not fewer than 10 days prior to the Special Record Date and, thereafter, the interest shall be payable to the Persons who are the Holders of the Bonds (or their respective Predecessor Bonds) at the close of business on the Special Record Date.

Subject to the foregoing, each Bond delivered under this Indenture upon transfer thereof, or in exchange for or in replacement of any other Bond, shall carry the rights to interest accrued and unpaid, and to accrue on that Bond, or which were carried by that Bond.

Except as provided in this Section and Section 2.09 hereof, (a) the Holder of any Bond shall be deemed and regarded as the absolute owner thereof for all purposes of this Indenture, (b) payment of or on account of the Bond Service Charges on any Bond shall be made only to or upon the order of that Holder or its duly authorized attorney in the manner permitted by this Indenture, and (c) neither the Issuer nor the Trustee shall, to the extent permitted by law, be affected by notice to the contrary. All of those payments shall be valid and effective to satisfy and discharge the liability upon that Bond, including without limitation, the interest thereon, to the extent of the amount or amounts so paid. Notwithstanding anything to the contrary herein or in any of the Bond Documents, the Trustee is authorized to use funds on deposit in the Special Funds, as and when provided, to pay principal and interest on the Bonds when due.

**Section 2.04 Restriction on Issuance of Bonds.** No Bonds may be issued under the provisions of this Indenture except in accordance with this Article. The total principal amount of Bonds that may be issued hereunder, other than Bonds issued pursuant to the provisions of Section 2.09 hereof or in substitution for other Bonds, is expressly limited to the amount set forth in Section 2.01.

**Section 2.05 Limited Obligations.** The Bonds and the interest thereon are limited obligations of the Issuer, payable solely from the revenues, receipts and security pledged therefor in the Granting Clauses hereof. The Bonds, together with premium, if any, and interest thereon, do not constitute an indebtedness, liability, general or moral obligation or a pledge of the full faith or loan of credit of the Issuer, the State, or any political subdivision of the State within the meaning of any constitutional or statutory provisions. None of the Issuer, the State or any political subdivision thereof shall be obligated to pay the principal of, premium, if any, or interest on the Bonds or other costs incident thereto except from the payments pledged with respect thereto and certain reserve funds established in connection therewith. Neither the faith and credit nor the taxing power of the United States of America, the Issuer, the State or any political subdivision thereof is pledged to the payment of the principal of, premium, if any, or interest on the Bonds or other costs incident thereto. The Bonds are not a debt of the United States of America or any agency thereof, and are not guaranteed by the United States of America or any agency thereof.

**Section 2.06 Indenture Constitutes Contract.** In consideration of the purchase and acceptance of the Bonds issued hereunder by those who shall hold them from time to time, the provisions of this Indenture shall be deemed to be a part of, and continue to be, a contract between the Issuer and the Holders of the Bonds from time to time.

**Section 2.07 Execution.** The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of its Mayor, attested by the manual or facsimile signature of its City Clerk or Deputy City Clerk, under the official seal, or a facsimile thereof, of the Issuer. Any facsimile signatures shall have the same force and effect as if said officers had manually signed

said Bonds. Any reproduction of the official seal of the Issuer on the Bonds shall have the same force and effect as if the official seal of the Issuer had been impressed on the Bonds.

In case any officer whose manual or facsimile signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery, and also any Bond may bear the facsimile signatures of, or may be signed by, such persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

**Section 2.08 Authentication.** Only such Bonds as shall have endorsed thereon a certificate of authentication substantially in the form on the attached **Exhibit A** duly executed by the Trustee shall be entitled to any right or benefit under this Indenture. No Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed manually by the Trustee; and such executed certificate upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture. The Trustee's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer of the Trustee, but it shall not be necessary that the same person sign the certificate of authentication of all of the Bonds.

**Section 2.09 Mutilated, Lost, Stolen or Destroyed Bonds.** In the event any Bond is mutilated, lost, stolen or destroyed, the Issuer shall execute and the Trustee shall authenticate a new Bond, of like date, interest rate, maturity and denomination as that mutilated, lost, stolen or destroyed. Any mutilated Bond shall first be surrendered to the Trustee; and in the case of any lost, stolen or destroyed Bond, there shall first be furnished to the Issuer and the Trustee evidence of such loss, theft or destruction reasonably satisfactory to them together with indemnity reasonably satisfactory to them. In the event any such Bond shall have matured, instead of issuing a duplicate Bond or Bonds the Trustee shall, upon the written direction of the Issuer, pay the same without surrender thereof. The Issuer and the Trustee may charge the holder or owner of such Bond with their reasonable fees and expenses, including the cost of printing replacement Bonds.

Every new Bond issued pursuant to this Section shall, with respect to such Bond, constitute an additional contractual obligation of the Issuer, whether or not the mutilated, lost, stolen or destroyed Bond shall be found at any time, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Bonds duly issued hereunder. All Bonds shall be held and owned on the express condition that the foregoing provisions of this Section are exclusive with respect to the replacement or payment of mutilated, lost, stolen or destroyed Bonds and shall preclude any and all rights or remedies, notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

**Section 2.10 Transfer and Exchange of Bonds; Persons Treated as Holders.** The Trustee as Registrar shall cause a bond register (herein sometimes referred to as the "Bond Register") to be kept for the registration of transfers of Bonds. Any Bond may be transferred only upon an assignment duly executed by the registered Holder or his or her duly authorized representative in such form as shall be satisfactory to the Registrar, and upon surrender of such Bond to the Trustee for cancellation. Whenever any Bond or Bonds shall be surrendered for transfer, the Issuer shall execute and the Trustee shall authenticate and deliver to the transferee a replacement fully registered Bond or Bonds of Authorized Denomination in an aggregate principal amount equal to the unmatured and unredeemed principal amount of, and bearing

interest at the same rate and maturing on the same date or dates as, the Bonds being presented and surrendered for transfer.

Any Bond may, in accordance with its terms, be exchanged, at the office of the Trustee, for a new fully registered Bond or Bonds, of the same maturity, of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed principal amount of, and bearing interest at the same rate as, the Bonds being exchanged. In the event of a partial redemption of a Bond, the Trustee shall authenticate and deliver to the Owner thereof a new Bond of like date, interest rate, maturity and denomination as the partially redeemed Bond in the amount of the unredeemed principal thereof.

In all cases in which Bonds shall be transferred or exchanged hereunder, the Trustee may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.

All Bonds issued upon any transfer or exchange of Bonds shall be the valid limited obligations of the Issuer, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Bonds surrendered upon transfer or exchange. Neither the Issuer nor the Trustee shall be required to make any exchange or transfer of a Bond during a period beginning at the opening of business 15 days before (i) any Interest Payment Date (including any special interest payment date described in Section 2.02 hereof), or (ii) the day of the mailing of a notice of redemption of Bonds and ending at the close of business on the day of such mailing or such Interest Payment Date, or to transfer or exchange any Bonds selected for redemption, in whole or in part.

The Person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of or on account of the principal of and premium and interest on any such Bond shall be made only to or upon the order of the registered Holder thereof or his legal representative, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums to be paid.

**Section 2.11 Cancellation and Disposition of Bonds.** Any Bond surrendered for the purpose of payment or retirement, or for exchange, or for replacement or payment pursuant to Section 2.09, shall be cancelled upon surrender thereof to the Trustee. Evidence of such surrender and cancellation shall be provided to the Issuer by the Trustee, if requested in writing. Cancelled Bonds, or unissued Bond inventory held in blank by the Trustee upon the maturity or total redemption of the Bonds, shall be disposed of by the Trustee in accordance with its retention policy then in effect and evidence of such disposition shall be provided by the Trustee to the Issuer, if requested in writing.

**Section 2.12 Book-Entry Provisions.** The provisions of this Section shall apply so long as the Bonds are maintained in book-entry form with The Depository Trust Company or another Securities Depository, any provisions of this Indenture to the contrary notwithstanding.

(a) *Payments.* The Bonds shall be payable to the Securities Depository, or its nominee, as the registered owner of the Bonds, on each date on which the principal of, interest on, and premium, if any, on the Bonds is due as set forth in this Indenture and in the Bonds. Such payments shall be made to the offices of the Securities Depository specified by the Securities Depository to the Issuer and the Trustee in writing. Without notice to or the consent of the beneficial owners of the Bonds, the Issuer and the Securities

Depository may agree in writing to make payments of principal, premium, if any, and interest in a manner different from that set forth herein. If such different manner of payment is agreed upon, the Issuer shall give the Trustee written notice thereof, and the Trustee shall make payments with respect to the Bonds in the manner specified in such notice as set forth herein. Neither the Issuer nor the Trustee shall have any obligation with respect to the transfer or crediting of the principal of, interest on, and premium, if any, on the Bonds to Participants or the beneficial owners of the Bonds or their nominees.

(b) *Replacement of the Securities Depository.* The Issuer may, and in the case of subparagraph (ii) or (iii) below shall, discontinue use of a Securities Depository as the depository of the Bonds if (i) the Issuer, in its sole discretion, determines that (A) such Securities Depository is incapable of discharging its duties with respect to the Bonds, or (B) the interest of the beneficial owners of the Bonds might be adversely affected by the continuation of the book-entry system with such Securities Depository as the depository for the Bonds, (ii) the beneficial owners of 100% of the Bonds Outstanding direct the Issuer to do so, or (iii) such Securities Depository determines not to continue to act as a depository for the Bonds or is no longer permitted to act as such depository. Notice of any determination pursuant to clauses (i), (ii) or (iii) shall be given to such Securities Depository at least 30 days prior to any such determination (or such fewer number of days as shall be acceptable to such Securities Depository). The Issuer shall have no obligation to make any investigation to determine the occurrence of any events that would permit the Issuer to make any determination described in this paragraph.

(c) *Discontinuance of Book-Entry or Change of Securities Depository.* If, following a determination or event specified in paragraph (b) above, the Issuer discontinues the maintenance of the Bonds in book-entry form with the then current Securities Depository, the Issuer will issue replacement Bonds to the successor Securities Depository, if any, or, if no replacement Securities Depository is selected for the Bonds, directly to the Participants as shown on the records of the former Securities Depository or, to the extent requested by any Participant or if directed to do so by the beneficial owners of 100% of the Bonds Outstanding pursuant to subparagraph (b)(ii) above, to the beneficial owners of the Bonds shown on the records of such Participant. Replacement Bonds shall be in fully registered form and in authorized denominations, be payable as to interest on the Interest Payment Dates of the Bonds by check mailed to each registered owner at the address of such owner as it appears on the bond registration books maintained by the Bond Registrar for such purpose at the principal corporate trust office of the Trustee or at the option of any registered owner of not less than \$1,000,000 principal amount of Bonds, by wire transfer to any address in the continental United States of America on such Interest Payment Date to such registered owner as of the Regular Record Date relating to such Interest Payment Date, if such registered owner provides the Trustee with written notice of such wire transfer address not later than such Regular Record Date (which notice may provide that it will remain in effect with respect to subsequent Interest Payment Dates unless and until changed or revoked by subsequent written notice provided 10 business days prior to the next applicable Regular Record Date). Principal and redemption premium, if any, on the replacement Bonds are payable only upon presentation and surrender of such replacement Bond or Bonds at the principal corporate trust office of the Trustee.

(d) *Effect of Book-Entry System.* The Securities Depository and its Participants and the beneficial owners of the Bonds, by their acceptance of the Bonds, agree that the Issuer and the Trustee shall not have liability for the failure of such

Securities Depository to perform its obligations to the Participants and the beneficial owners of the Bonds, nor shall the Issuer or the Trustee be liable for the failure of any Participant or other nominee of the beneficial owners to perform any obligation of the Participant to a beneficial owner of the Bonds.

**Section 2.13 Delivery of the Bonds.** Upon execution and delivery of this Indenture, and satisfaction of the conditions established by the Issuer in the Ordinance and in the Bond Purchase Agreement for delivery of the Bonds, the Issuer shall execute the Bonds and deliver them to the Trustee with written directions to authenticate them. The Trustee shall authenticate and deliver the Bonds as provided in this Indenture, but only upon the receipt of the following:

(i) An order of the Issuer directing the Trustee to authenticate and deliver the Bonds (a form of which is attached hereto as **Exhibit A**) against receipt of the initial purchase price therefor;

(ii) A certified copy of the Ordinance;

(iii) Executed counterparts (or electronic copies thereof) of this Indenture and the other Financing Documents specifically listed in the definition of Financing Documents;

(iv) An opinion of Counsel to the Issuer addressed to the Trustee to the effect that the Bonds have been duly authorized, executed and delivered and that the Bond Documents have been duly executed and delivered by the Issuer and constitute valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms, subject to bankruptcy, insolvency or other laws affecting creditors' rights generally and, with respect to certain remedies which require, or may require, enforcement by a court of equity, such principles of equity as the court having jurisdiction may impose;

(v) An opinion of Bond Counsel addressed to the Trustee, substantially to the effect that this Indenture and the Bonds constitute legal, valid and binding obligations of the Issuer, subject to customary exceptions relating to bankruptcy and insolvency, and to the further effect that the interest on the Bonds is excludable from the gross income of the holders thereof for federal income tax purposes under existing law, subject to customary exceptions and this Indenture creates a lien on the Trust Estate;

(vi) An opinion of counsel for the Borrower addressed to the Trustee and the Underwriter to the effect that the Borrower Documents have been duly authorized, executed and delivered by the Borrower and are legal, valid and binding agreements of the Borrower in accordance with their respective terms subject to customary qualifications and exceptions;

(vii) Funds the Trustee is required to receive for deposit pursuant to Section 4.02 hereof;

(viii) Reimbursement of all fees and expenses due to Trustee hereunder;

(ix) A request and authorization signed by an Authorized Issuer Representative authorizing the Trustee to authenticate and to deliver the Bonds to

the Underwriter upon payment to the Trustee for the account of the Issuer of the amount specified in such request and authorization plus accrued interest, if any, thereon to the date of delivery;

(x) Evidence in writing of recordation of the Land Use Restriction Agreement (which may be in the form of a title company certified copy); and

(xi) Any other documents or opinions which the Trustee, the Issuer or Bond Counsel may reasonably require, which requirement shall be deemed to be satisfied upon the delivery of the Opinion of Bond Counsel.

**Section 2.14 Special Agreement with Holders.** Notwithstanding any provision of this Indenture or of any Bond to the contrary, with the written approval of the Borrower, the Trustee may but shall not be obligated to, enter into an agreement with any Holder providing for making all payments to that Holder of principal of and interest on that Bond or any part thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner other than as provided in this Indenture and in the Bond, without presentation or surrender of the Bond, upon any conditions which shall be satisfactory to the Trustee and the Borrower; provided, that payment in any event shall be made to the Person in whose name a Bond shall be registered on the Register, with respect to payment of principal, on the date such principal is due, and, with respect to the payment of interest, as of the applicable Regular Record Date or Special Record Date, as the case may be.

The Trustee will furnish a copy of each of those agreements, certified to be an accurate copy by an officer of the Trustee, to the Issuer and the Borrower. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Indenture.

**Section 2.15 CUSIP Numbers.** The Issuer in issuing the Bonds may use "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in notices of redemption as a convenience to Holders; *provided* that the Trustee shall have no liability for any defect in the "CUSIP" numbers as they appear on any Bond, notice or elsewhere, and, *provided further* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Bonds or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Bonds, and any such redemption shall not be affected by any defect in or omission of such numbers. The Issuer will promptly notify the Trustee in writing of any change in the "CUSIP" numbers.

### ARTICLE 3 REDEMPTION OF BONDS

**Section 3.01 Redemption of Bonds.** The Bonds are subject to redemption prior to their stated maturity as follows:

(a) Optional Redemption. The Bonds are subject to optional redemption in whole or in part by the Issuer at the written direction of the Borrower (with a copy to the Invested Limited Partner and the Construction Lender) on the Initial Remarketing Date at a redemption price of 100% of the principal amount of such Bonds to be redeemed plus accrued interest to the applicable Redemption Date given to the Trustee at least five (5) Business Days prior to the Initial Remarketing Date or the optional redemption date, as

applicable. After the Initial Remarketing Date, the Borrower, in consultation with the Remarketing Agent, may establish an optional redemption date with respect to any subsequent Remarketing Period and, thereafter, the Bonds are subject to optional redemption in whole or in part by the Issuer at the written direction of the Borrower (with a copy to the Invested Limited Partner and the Construction Lender) on or after the applicable redemption date at a redemption price of 100% of the principal amount of such Bonds to be redeemed plus accrued interest to the applicable redemption date.

(b) Reserved.

(c) Mandatory Redemption. The Bonds shall be redeemed in whole at a redemption price of 100% of the principal amount of such Bonds, plus accrued interest to the Redemption Date, on any Mandatory Tender Date upon the occurrence of any of the following events: (i) the Borrower has previously elected not to cause the remarketing of the Bonds, (ii) the conditions to remarketing set forth in this Indenture have not been met by the dates and times set forth in Section 3.07(b) or Section 3.07(d) hereof, or (iii) the proceeds of a remarketing on deposit in the Remarketing Proceeds Account at 11:00 a.m. Local Time on the Mandatory Tender Date are insufficient to pay the purchase price of the Outstanding Bonds on such Mandatory Tender Date. Bonds subject to redemption in accordance with this paragraph shall be redeemed from (I) amounts on deposit in the Collateral Fund, (II) amounts on deposit in the Negative Arbitrage Account of the Bond Fund, (III) amounts on deposit in the Project Fund, and (IV) any other Eligible Funds available or made available for such purpose at the written direction of the Borrower.

(d) Purchase in Lieu of Redemption. At the election of the Borrower upon a redemption in whole of the Bonds, by written notice to the Trustee and the Remarketing Agent given not less than five (5) Business Days in advance of such redemption date, the Bonds will be deemed tendered for purchase in lieu of the redemption on such date and the call for redemption shall be cancelled. The purchase price of Bonds so purchased in lieu of redemption shall be the principal amount thereof together with all accrued and unpaid interest to the date of redemption and any prepayment fee, if due, and shall be payable on the date of redemption thereof. Bonds so purchased in lieu of redemption shall remain Outstanding and shall be registered to or upon the direction of the Borrower.

**Section 3.02 Partial Redemption.** In the case of a partial redemption of Bonds when Bonds of denominations greater than \$5,000 are then Outstanding, each \$5,000 unit of face value of principal thereof shall be treated as though it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all of the \$5,000 units of face value represented by a Bond are to be called for redemption, then upon notice of redemption of a \$5,000 unit or units, the Holder of that Bond shall surrender the Bond to the Trustee (a) for payment of the redemption price of the \$5,000 unit or units of face value called for redemption (including without limitation, the interest accrued to the date fixed for redemption and any premium), and (b) for issuance, without charge to the Holder thereof, of a new Bond or Bonds of the same series, of any Authorized Denomination or Denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and bearing interest at the same rate and maturing on the same date as, the Bond surrendered.

If less than all of an Outstanding Bond of one maturity in a Book-Entry System is to be called for redemption, the Trustee shall give notice to the Depository or the nominee of the Depository that is the Holder of such Bond, and the selection of the Beneficial Ownership Interests in that Bond to be redeemed shall be at the sole discretion of the Depository and its participants.

**Section 3.03 Notice of Redemption.** Unless waived by any Holder of Bonds to be redeemed, official written notice of redemption shall be given by the Trustee on behalf of the Issuer by mailing a copy of an official redemption notice by first-class mail, postage prepaid, to the Holder of each Bond to be redeemed, at the address of such Holder shown on the Register at the opening of business on the fifth day prior to such mailing, not less than 20 days nor more than 30 days prior to the date fixed for redemption. With respect to a mandatory redemption pursuant to Section 3.01(c), the Notice of Mandatory Tender provided to Holders pursuant to Section 3.06 shall serve as the notice of redemption required by this Section 3.03 and no further notice of redemption will be required to the Holders. A second written notice of redemption shall be given by the Trustee on behalf of the Issuer, as soon as practicable, by first-class mail to the Holder of each Bond which has been so called for redemption (in whole or in part) but has not been presented and surrendered to the Trustee within 30 days following the date fixed for redemption of that Bond.

All notices of redemption shall state:

- (a) the Redemption Date;
- (b) the redemption price;
- (c) if less than all Outstanding Bonds are to be redeemed, the identification by designation, letters, numbers or other distinguishing marks (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed;
- (d) that on the redemption date the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date;
- (e) the place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the Designated Office of the Trustee, and;
- (f) that the notice of redemption is conditioned upon there being deposited with the Trustee on or prior to the date of redemption money sufficient to pay the redemption price of the Bonds to be redeemed and, in the case of any redemption premium on Bonds, that there be on deposit Eligible Funds sufficient to pay such redemption premium; and
- (g) such other information as the Trustee deems advisable.

Notices of redemption shall be revocable in the event that there is not on deposit with the Trustee by 10:00 a.m. Central time on the date of redemption money sufficient to pay the redemption price of the Bonds to be redeemed or, in the case of any redemption premium on Bonds, there is not on deposit Eligible Funds sufficient to pay such redemption premium.

If the Bonds are not then held in a Book-Entry System, in addition to the foregoing notice, further written notice shall be given by the Trustee on behalf of the Issuer as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as above prescribed.

(h) Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (i) the CUSIP numbers of all Bonds being redeemed; (ii) the date of issue of the Bonds as originally issued; (iii) the rate of interest borne by each Bond being redeemed; (iv) the maturity date of each Bond being redeemed; and (v) any other descriptive information deemed necessary in the sole discretion of the Trustee to identify accurately the Bonds being redeemed.

(i) Each further notice of redemption shall be sent at least 15 days before the redemption date by electronic mail, registered or certified mail or overnight delivery service to the Electronic Municipal Market Access ("EMMA") or if EMMA is not in existence, to one or more national information services that disseminate notices of redemption of obligations such as the Bonds.

(j) Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number (if any) identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

Failure to receive notice by mailing or any defect in that notice regarding any Bond, however, shall not affect the validity of the proceedings for the redemption of any other Bond.

Notice of any redemption hereunder with respect to Bonds held under a Book-Entry System shall be given by the Trustee on behalf of the Issuer only to the Depository, or its nominee, as the Holder of such Bonds. Selection of Beneficial Ownership Interests in the Bonds called for redemption is the responsibility of the Depository and any failure of such Depository to notify the Beneficial Owners of any such notice and its contents or effect will not affect the validity of such notice of any proceedings for the redemption of such Bonds.

**Section 3.04 Payment of Redeemed Bonds.** Notice of Redemption having been given in the manner provided in this Article III, the Bonds and portions thereof called for redemption shall become due and payable on the Redemption Date, and upon presentation and surrender thereof at the place or places specified in that notice, shall be paid at the redemption price, including interest accrued to the Redemption Date.

Upon the payment of the price of Bonds being redeemed or prepaid, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed or prepaid with the proceeds of such check or other transfer.

If money for the redemption of all of the Bonds and portions thereof to be redeemed, together with interest accrued thereon to the Redemption Date, is held by the Trustee on the Redemption Date, so as to be available therefor on that date and if notice of redemption has been deposited in the mail as aforesaid, then from and after the Redemption Date those Bonds and portions thereof called for redemption shall cease to bear interest and no longer shall be considered to be Outstanding hereunder. If such money shall not be so available on the redemption date, or that notice shall not have been deposited in the mail as aforesaid, those Bonds and portions thereof shall continue to bear interest, until they are paid, at the same rate as they would have borne had they not been called for redemption.

All money deposited in the Bond Fund and held by the Trustee for the redemption, purchase or prepayment of particular Bonds shall be held in trust for the account of the Holders thereof and shall be paid to them, respectively, upon presentation and surrender of those Bonds.

**Section 3.05 Mandatory Tender**

(a) Mandatory Tender for Purchase. All Outstanding Bonds shall be subject to Mandatory Tender by the Holders for purchase in whole and not in part on each Mandatory Tender Date. The purchase price for each such Bond shall be payable in lawful money of the United States of America by check, shall equal 100% of the principal amount to be purchased and accrued interest, if any, to the Mandatory Tender Date, and shall be paid in full on the applicable Mandatory Tender Date.

(b) Mandatory Tender Dates. The Mandatory Tender Dates shall consist of (i) the Initial Mandatory Tender Date and (ii) any subsequent dates for mandatory tender of the Bonds established in writing by the Borrower with the written consent of the Remarketing Agent in connection with a remarketing of the Bonds pursuant to Section 3.07 hereof.

(c) Holding of Tendered Bonds. While tendered Bonds are in the custody of the Trustee pending purchase pursuant hereto, the tendering Holders thereof shall be deemed the owners thereof for all purposes, and interest accruing on tendered Bonds through the day preceding the applicable Mandatory Tender Date is to be paid as if such Bonds had not been tendered for purchase.

(d) Effect of Prior Redemption. Notwithstanding anything herein to the contrary, any Bond tendered under this Section 3.05 will not be purchased if such Bond matures or is redeemed on or prior to the applicable Mandatory Tender Date.

(e) Purchase of Tendered Bonds. The Trustee shall utilize the following sources of payments to pay the tender price of the Bonds not later than 2:30 p.m. Local Time on the Mandatory Tender Date in the following priority: (i) amounts deposited in the Remarketing Proceeds Account, to pay the principal amount, plus accrued interest, of Bonds tendered for purchase; (ii) amounts on deposit in the Collateral Fund, to pay the principal amount of Bonds tendered for purchase; (iii) amounts on deposit in the Negative Arbitrage Account of the Bond Fund to pay the accrued interest, if any, on Bonds tendered for purchase; (iv) amounts on deposit in the Project Fund; and (v) any other Eligible Funds available or made available for such purpose at the written direction of the Borrower.

(f) Undelivered Bonds. Bonds shall be deemed to have been tendered for purposes of this Section 3.05 whether or not the Holders shall have delivered such Undelivered Bonds to the Trustee, and subject to the right of the Holders of such Undelivered Bonds to receive the purchase price of such Bonds on the Mandatory Tender Date, such Undelivered Bonds shall be null and void. If such Undelivered Bonds are to be remarketed, the Trustee shall authenticate and deliver new Bonds in replacement thereof pursuant to the remarketing of such Undelivered Bonds.

**Section 3.06 Mandatory Tender Notice**

(a) Notice to Holders. Not less than 30 days preceding a Mandatory Tender Date, the Trustee shall, on behalf of the Issuer, give written notice of mandatory tender to the Holders of the Bonds then Outstanding (with a copy to the Borrower, the Managing Member, the General Partner and the Remarketing Agent) by Electronic Means or by first class mail, postage prepaid, at their respective addresses appearing on the Register stating:

(i) the Mandatory Tender Date and that (A) all Outstanding Bonds are subject to Mandatory Tender for purchase on the Mandatory Tender Date, (B) all Outstanding Bonds must be tendered for purchase no later than 12:00 Noon, Local Time, on the Mandatory Tender Date and (C) Holders will not have the right to elect to retain their Bonds;

(ii) the address of the Designated Office of the Trustee at which Holders should deliver their Bonds for purchase;

(iii) that all Outstanding Bonds will be purchased on the Mandatory Tender Date at a price equal to the principal amount of the Outstanding Bonds plus interest accrued to, but not including, the Mandatory Tender Date; and

(iv) that any Bonds not tendered will nevertheless be deemed to have been tendered and will cease to bear interest from and after the Mandatory Tender Date.

(b) Second Notice. In the event that any Bond required to be delivered to the Trustee for payment of the purchase price of such Bond shall not have been delivered to the Trustee on or before the 30<sup>th</sup> day following a Mandatory Tender Date, the Trustee shall, on behalf of the Issuer, mail a second notice to the Holder of the Bond at its address as shown on the Register setting forth the requirements set forth in this Indenture for delivery of the Bond to the Trustee and stating that delivery of the Bond to the Trustee (or compliance with the provisions of this Indenture concerning payment of lost, stolen or destroyed Bonds) must be accomplished as a condition to payment of the purchase price or redemption price applicable to the Bond.

(c) Failure to Give Notice. Neither failure to give or receive any notice described in this Section 3.06, nor the lack of timeliness of such notice or any defect in any notice (or in its content) shall affect the validity or sufficiency of any action required or provided for in this Section 3.06.

### **Section 3.07 Remarketing of Bonds**

(a) Notice of Mandatory Tender. No later than 11:00 a.m. Local Time on the 30<sup>th</sup> day prior to each Mandatory Tender Date, the Trustee shall give notice to the Borrower, the Managing Member and the Remarketing Agent by telephone or electronic mail, confirmed on the same day in writing, which states the aggregate principal amount of Bonds which are to be tendered or deemed to be tendered pursuant to Section 3.05 hereof, which shall be all Outstanding Bonds.

(b) Preliminary Conditions to Remarketing. No later than 11:00 a.m. Local Time on the 15<sup>th</sup> day prior to the Mandatory Tender Date then in effect, the Borrower may give notice to the Remarketing Notice Parties by telephone or electronic mail, confirmed on the same day in writing, that it elects to cause the Bonds to be remarketed. A remarketing of the Bonds shall be permitted only if the following conditions are satisfied no later than the time the foregoing election notice is given:

(i) Written notice by the Borrower to the Remarketing Notice Parties of the Remarketing Period pursuant to Section 3.10 of the Loan Agreement, which period shall be approved in writing by the Remarketing Agent;

(ii) Delivery to the Trustee, the Rating Agency, and the Remarketing Agent of a written preliminary Cash Flow Projection with respect to the proposed Remarketing Period; and

(iii) The Borrower shall have notified the Issuer and the Trustee in writing that it has approved as to form and substance any disclosure document or offering materials which, in the Opinion of Counsel to the Remarketing Agent addressed to the Issuer and the Trustee, is necessary to be used in connection with the remarketing of the Outstanding Bonds.

(c) Remarketing. Not less than 10 days before each Remarketing Date, the Remarketing Agent shall offer for sale and use its best efforts to sell the Bonds Outstanding on the Remarketing Date at a price equal to 100% of the principal amount of such Bonds plus, if such Remarketing Date is a date other than an Interest Payment Date, accrued interest on such Bonds from the preceding Interest Payment Date to which interest has been paid. No later than the Business Day following the day on which the Remarketing Agent makes its determination of the Remarketing Rate, the Remarketing Agent shall give notice, by telephone or electronic mail, promptly confirmed in writing, to the Remarketing Notice Parties specifying the principal amount of Bonds, if any, it has remarketed (including Bonds to be purchased by the Remarketing Agent on the Remarketing Date for its own account), the Remarketing Rate(s) and the Remarketing Period applicable to the Bonds.

The Remarketing Agent shall have the right to remarket the Bonds tendered pursuant to Section 3.05 hereof; provided, however, that no Bonds shall be remarketed at a price less than 100% of the principal amount thereof plus accrued interest (if any) without the prior written consent of the Borrower and Investor Limited Partner; and provided, further, that the purchase price of any Bond paid to the tendering Holder allocable to such discount shall be paid with Eligible Funds made available therefor and on deposit with the Trustee prior to the remarketing of such Bonds. The Remarketing Agent shall have the right to purchase any Bond tendered or deemed tendered pursuant to Section 3.05 hereof at 100% of the principal amount thereof, and to thereafter sell such Bond. Any such purchase shall constitute a remarketing hereunder.

The Remarketing Agent shall not remarket any Bond to the Issuer, the Borrower, any guarantor of the Bonds or any person which is an "insider" of the Issuer, the Borrower, or any such guarantor within the meaning of the Bankruptcy Code.

(d) Final Conditions to Remarketing.

(i) If, not less than four (4) Business Days preceding the Remarketing Date:

(1) the Remarketing Agent shall have notified the Trustee in writing of the remarketing of the Outstanding Bonds and that the proceeds from the remarketing (including proceeds of remarketing of Outstanding Bonds to be purchased by the Remarketing Agent on the Remarketing Date for its own account) or other funds equal to the amount needed to purchase the remarketed Bonds on the Remarketing Date are expected to be available to the

Trustee on the Remarketing Date for deposit into the Remarketing Proceeds Account; and

(2) the Trustee and the Issuer shall have received written notice from the Remarketing Agent that the Rating Agency shall have received and approved a Cash Flow Projection based on the interest rate(s) to be in effect with respect to the Outstanding Bonds on and after the applicable Remarketing Date;

(3) there shall be on deposit with the Trustee, from Eligible Funds provided by the Borrower an amount sufficient to pay the Extension Payment set forth in the Cash Flow Projection for deposit (A) to the Negative Arbitrage Account of the Bond Fund with respect to the payment of Bond Service Charges during the new Remarketing Period and (B) to the Expense Fund with respect to the payment of Administrative Expenses during the new Remarketing Period;

(4) there shall be on deposit with the Trustee, from Eligible Funds provided by the Borrower an amount sufficient to pay the estimated Remarketing Expenses for deposit in the Expense Fund, or provision for the payment of the estimated Remarketing Expenses shall have been made to the satisfaction of the Trustee and the Remarketing Agent;

(5) the Trustee shall have received written notice from the Remarketing Agent that the Remarketing Agent has received written confirmation from the Rating Agency that the then current rating assigned to the Outstanding Bonds will continue to be effective on the Remarketing Date; and

(6) the Trustee shall have received an Opinion of Bond Counsel to the effect that the remarketing of the Bonds will not adversely affect the excludability of interest on the Bonds from gross income for federal income tax purposes;

then the Trustee shall immediately give notice, by telephone or electronic mail, which notice shall be immediately confirmed in writing, to the Remarketing Agent, the Borrower, the Construction Lender and the [Investor Limited Partner] that (a) all conditions precedent to the remarketing of the Outstanding Bonds have been satisfied and (b) the sale and settlement of the Outstanding Bonds is expected to occur on the Mandatory Tender Date. Following the Trustee's notice, the Outstanding Bonds shall be sold to the purchasers identified by the Remarketing Agent for delivery and settlement on the Mandatory Tender Date, and the Trustee shall apply (i) the funds in the Remarketing Proceeds Account of the Bond Fund on the Remarketing Date to payment of the purchase price of the Outstanding Bonds and (ii) the funds in the Expense Fund to payment of the Remarketing Expenses.

(e) Failure to Satisfy Final Conditions. If not less than four (4) Business Days preceding a Mandatory Tender Date, any condition set forth in paragraph (d) of this Section 3.07 has not been satisfied then the Remarketing Agent shall not sell any of the

Outstanding Bonds on the Remarketing Date and the Trustee shall cancel all Outstanding Bonds pursuant to Section 3.08 hereof.

(f) Remarketing Proceeds. No later than 11:00 a.m. Local Time on each Mandatory Tender Date, the Remarketing Agent shall either (i) pay to the Trustee, in immediately available funds, the proceeds theretofore received by the Remarketing Agent from the remarketing of Bonds tendered for purchase on such Mandatory Tender Date or (ii) cause to be paid to the Trustee by the purchasers of the remarketed Bonds the purchase price plus accrued interest (if any) in immediately available funds. The proceeds from the remarketing of the Bonds shall be deposited in the Remarketing Proceeds Account, segregated from any funds of the Borrower and the Issuer and shall in no case be considered to be or be assets of the Borrower or the Issuer. Funds representing remarketing proceeds received by the Remarketing Agent after 11:00 a.m. Local Time on each Mandatory Tender Date shall be paid to the Trustee as soon as practicable upon such receipt.

(g) Delivery of Purchased Bonds. On or before the Business Day next preceding each Mandatory Tender Date, the Remarketing Agent, by telephonic advice or electronic mail, shall notify the Trustee of (i) the principal amount of Bonds to be sold by the Remarketing Agent pursuant to Section 3.07 hereof and the purchase price, and, unless the Bonds are then in the Book-Entry System, the names, addresses and social security numbers or other tax identification numbers of the proposed purchasers thereof and (ii) the principal amount of Bonds tendered for purchase on such Mandatory Tender Date which will not be sold by the Remarketing Agent pursuant to Section 3.07 hereof. Such telephonic advice shall be confirmed by written notice delivered or electronically communicated at the same time as the telephonic advice.

Bonds purchased by the Trustee on a Mandatory Tender Date that have been remarketed shall be delivered to the purchasers thereof as directed in writing by the Remarketing Agent. Bonds delivered as provided in this Section shall be registered in the manner directed in writing by the recipient thereof.

**Section 3.08 Cancellation of Bonds.** The Trustee shall immediately cancel Bonds if the tender price of the Bonds is paid from amounts other than proceeds derived from the remarketing of the Bond.

#### **ARTICLE 4 FUNDS; INVESTMENTS**

**Section 4.01 Establishment of Funds.** The following funds are hereby established and shall be maintained by the Trustee under this Indenture and held in trust by the Trustee for the benefit of the Bonds:

- (a) the Bond Fund, and therein the Negative Arbitrage Account and the Remarketing Proceeds Account (but only at such times as money is to be deposited or held in such Accounts as provided in this Indenture);
- (b) Project Fund;
- (c) Costs of Issuance Fund;

- (d) Collateral Fund;
- (e) Rebate Fund; and
- (f) Expense Fund.

Each fund and account therein shall be maintained by the Trustee as a separate and distinct trust fund or account to be held, managed, invested, disbursed and administered as provided in this Indenture. All money deposited in the funds and accounts created hereunder shall be used solely for the purposes set forth in this Indenture. The Trustee shall keep and maintain adequate records pertaining to each fund and account, and all disbursements therefrom, in accordance with its general practices and procedures in effect from time to time. The Trustee may also terminate funds and accounts that are no longer needed.

The Trustee shall, at the written direction of an Authorized Borrower Representative and may, in its discretion, establish such additional accounts within any fund, and subaccounts within any of the accounts, as the Issuer (as requested in writing) or the Trustee may deem necessary or useful for the purpose of identifying more precisely the sources of payments into and disbursements from that fund and its accounts, or for the purpose of complying with the requirements of the Code, but the establishment of any such account or subaccount shall not alter or modify any of the requirements of this Indenture with respect to a deposit or use of money in the Special Funds or the Rebate Fund, or result in commingling of funds not permitted hereunder.

#### **Section 4.02 Application of Bond Proceeds**

- (a) The proceeds of the Bonds in the amount of \$\_\_\_\_\_ shall be allocated, deposited or delivered by the Trustee to the Project Fund.
- (b) On the Closing Date, the Trustee shall receive the Initial Borrower Deposit from or on behalf of the Borrower, which the Trustee shall deposit to the Costs of Issuance Fund.
- (c) On the Closing Date, the Trustee shall deposit Eligible Funds in the amount of \$0 for deposit to the Negative Arbitrage Account of the Bond Fund.

#### **Section 4.03 Bond Fund**

On the Closing Date, there shall be deposited in the Bond Fund, from the proceeds of the sale of the Bonds, any accrued interest to be paid with respect to the Bonds, and in the Negative Arbitrage Account of the Bond Fund the amount set forth in Section 4.02(c) hereof, which is an amount equal to the amount of interest payments on the Bonds from the closing date to the initial Mandatory Tender Date. The portion of any Extension Payment received by the Trustee in connection with a remarketing in accordance with Section 3.07 hereof designated for the payment of Bond Service Charges shall also be deposited in the Negative Arbitrage Account.

So long as there are any Outstanding Bonds, to the extent the Borrower has not received a credit against Loan Payments, all Loan Payments under the Loan Agreement shall be paid on or before each Interest Payment Date directly to the Trustee, and deposited in the Bond Fund, in at least the amount necessary to pay the Bond Service Charges due on the Bonds on such Interest Payment Date.

The Bond Fund (and accounts therein for which provision is made in this Indenture) and the money and Eligible Investments therein shall be used solely and exclusively for the payment of Bond Service Charges as they become due.

Bond Service Charges shall be payable, as they become due, in the following order: (a) from money on deposit in the Bond Fund (excluding the Negative Arbitrage Account therein), (b) next from money on deposit in the Negative Arbitrage Account of the Bond Fund, (c) next from money on deposit in the Collateral Fund and transferred as necessary to the Bond Fund, and (d) thereafter, from money on deposit in the Project Fund and transferred as necessary to the Bond Fund.

Upon receipt by the Trustee of a Cash Flow Projection provided on behalf of the Borrower, the Trustee is hereby authorized to release from the Negative Arbitrage Account the amount set forth in the Cash Flow Projection to be released to or at the written direction of the Borrower from such account.

#### **Section 4.04 Project Fund**

(a) Money in the Project Fund shall be disbursed in accordance with the provisions of this Section 4.04 and Section 3.06 of the Loan Agreement. Upon the deposit of Eligible Funds in the Collateral Fund as provided in Section 4.06 hereof, and subject to the provisions of this Section 4.04, the Trustee shall disburse the Bond proceeds on deposit in the Project Fund, for use by the Borrower to pay Costs of the Project in accordance with Section 3.06 of the Loan Agreement. Promptly upon the receipt of such Eligible Funds, the Trustee shall be unconditionally and irrevocably obligated to disburse an equal amount from the Project Fund, or, if the Trustee is unable for any reason to make such disbursement, the Trustee shall return such Eligible Funds to the party that provided them. The Trustee shall cause to be kept and maintained adequate records pertaining to the Project Fund and all disbursements therefrom. If requested in writing by the Issuer, the General Partner or the Borrower, after the Project has been completed and a Completion Certificate is filed as provided in Section 4.07 hereof, the Trustee shall provide copies of the records pertaining to the Project Fund and disbursements therefrom to the Issuer and the Borrower and the General Partner. The Trustee shall satisfy this obligation by providing statements for all periods in which there are funds in the Project Fund.

(b) Proceeds of the Bonds shall only be used by the Borrower to pay either Costs of the Project or Bond Service Charges.

(c) Notwithstanding any provision of the Loan Agreement or any other provision of this Indenture to the contrary, the Trustee shall not disburse money from the Project Fund, other than to pay Bond Service Charges on the Bonds, unless and until Eligible Funds or other Eligible Funds in an amount equal to or greater than the requested disbursement amount have been deposited in the Collateral Fund. Prior to making any disbursement (except to the extent necessary to pay Bond Service Charges), the Trustee shall determine that the aggregate principal amount that will be held in (a) the Collateral Fund and (b) the Project Fund, after the anticipated disbursement, is at least equal to the then-Outstanding principal amount of the Bonds; provided, however, to the extent money on deposit in the Project Fund is invested in Eligible Investments, the Trustee is hereby authorized to make the following allocations and exchanges, which allocations and exchanges shall occur prior to the disbursement of amounts on deposit in the Project Fund to pay Project Costs: (i) allocate all or a portion of the Eligible Investments in the Project

Fund, in the amount specified in the request for disbursement, to the Collateral Fund and (ii) transfer a like amount from the Collateral Fund to the Project Fund. To the extent money is not otherwise available to the Trustee, including money on deposit in the Bond Fund or the Collateral Fund, the Trustee shall transfer from the Project Fund to the Bond Fund sufficient money to pay Bond Service Charges on each Interest Payment Date without further written direction. Except to the extent proceeds of the Bonds might be used to pay Bond Service Charges, as described in the previous sentence, Bond Proceeds on deposit in the Project Fund shall only be used to fund Costs of the Project.

(d) On any Redemption Date, the Trustee shall transfer any amounts then on deposit in the Project Fund into the Bond Fund to pay Bond Service Charges on the Bonds.

(e) Upon obtaining actual knowledge of the occurrence and continuance of an Event of Default hereunder because of which the principal amount of the Bonds has been declared to be due and immediately payable pursuant to Section 6.02 hereof, any money remaining in the Project Fund shall be promptly transferred by the Trustee to the Bond Fund.

#### **Section 4.05 Costs of Issuance Fund**

Amounts on deposit in the Costs of Issuance Fund shall be used by the Trustee to pay costs of issuance as directed in writing by the Borrower. Any amounts remaining on deposit in the Costs of Issuance Fund 30 days after the Closing Date shall be promptly returned to the Borrower or disbursed at the written direction of the Borrower.

#### **Section 4.06 Collateral Fund**

The Trustee shall deposit into the Collateral Fund all Eligible Funds received pursuant to Section 4.02 of the Loan Agreement and any other Eligible Funds received by the Trustee for deposit into the Collateral Fund. Section 4.02 of the Loan Agreement requires the Borrower to provide written direction to the Lender to deliver or cause to be delivered the Lender Funds portion of the Eligible Funds, or to otherwise cause to be delivered Eligible Funds from any other source, to the Trustee for deposit into the Collateral Fund in an amount equal to, and as a prerequisite to the disbursement of, the amount of Bond proceeds on deposit in the Project Fund to be disbursed by the Trustee to pay Costs of the Project.

The Trustee shall transfer money in the Collateral Fund as follows: (a) on each Bond Payment Date, to the Bond Fund the amount necessary to pay Bond Service Charges on the Bonds on such Bond Payment Date (to the extent money is not otherwise available to the Trustee, including money on deposit in the Bond Fund); (b) on the Mandatory Tender Date, to the Bond Fund, the amount necessary to pay the purchase price of the Bonds, to the extent the Bonds are not remarketed on any Mandatory Tender Date or amounts on deposit in the Remarketing Proceeds Account of the Bond Fund are insufficient therefor; and (c) on the Maturity Date of the Bonds, to the Bond Fund the amount necessary to pay all amounts due on the Bonds on such date.

On any Redemption Date, the Trustee shall transfer all amounts then on deposit in the Collateral Fund into the Bond Fund to pay Bond Service Charges on the Bonds.

Amounts on deposit in the Collateral Fund in excess of the amount required to pay Bond Service Charges after payment in full of the Bonds shall be transferred to the Borrower.

The Bonds shall not be, and shall not be deemed to be, paid or prepaid by reason of any deposit into the Collateral Fund unless and until the amount on deposit in the Collateral Fund is transferred to the Bond Fund and applied to the payment of the principal of any of the Bonds, the principal component of the redemption price of any of the Bonds or the principal component of the tender price of any of the Bonds, all as provided in this Indenture.

Each deposit into the Collateral Fund shall constitute an irrevocable deposit solely for the benefit of the Holders, subject to the provisions hereof.

#### **Section 4.07 Completion of the Project**

The completion of the Project and payment of all costs and expenses incident thereto shall be evidenced by the filing with the Trustee of the Completion Certificate required by Section 3.09 of the Loan Agreement, the form of which is attached as Exhibit C thereto. As soon as practicable after the filing with the Trustee of the Completion Certificate, any balance remaining in the Project Fund (other than the amounts retained by the Trustee as described in the Completion Certificate) shall be deposited or applied in accordance with the written direction of the Authorized Borrower Representative pursuant to Section 3.06 of the Loan Agreement, subject to Section 10.12 hereof.

#### **Section 4.08 Expense Fund**

The portion of any Extension Payment received by the Trustee in connection with an extension of the Mandatory Tender Date pursuant to Section 3.07 hereof designated for the payment of Administrative Expenses shall be deposited in the Expense Fund. The Trustee shall apply money on deposit in the Expense Fund solely for the following purposes, on the dates specified below, in the following order of priority:

- (a) to transfer money to the Rebate Fund to the extent necessary to pay the Rebate Amount (if any) pursuant to Section 4.09 hereof;
- (b) to pay the Ordinary Trustee's Fees and Expenses when due;
- (c) to pay the Issuer Fee and the City Administrative Fee when due;
- (d) to pay the Dissemination Agent Fee when due; and
- (e) to pay the costs associated with the remarketing of the Bonds on the Initial Mandatory Tender Date.

To the extent money in the Expense Fund is not sufficient to pay the foregoing fees and expenses, such deficiency shall be paid by the Borrower pursuant to Section 4.04 of the Loan Agreement immediately upon written demand by the Trustee.

#### **Section 4.09 Rebate Fund**

Any provision hereof to the contrary notwithstanding, amounts credited to the Rebate Fund shall be free and clear of any lien hereunder.

The Trustee shall, at the cost and expense of the Borrower, furnish to the Issuer, the Borrower and the General Partner all information reasonably requested in writing by the Issuer, the Borrower or the General Partner with respect to the Bonds and investments of the Funds and

accounts maintained by the Trustee hereunder. The purpose of the Rebate Fund is to facilitate compliance with Section 148(f) of the Code. Any Rebate Amount (as defined in the Tax Compliance Agreement) deposited in such Fund shall be for the sole benefit of the United States of America and shall not be subject to the lien of the Indenture or to the claim of any other Person, including, without limitation, the Bondholders and the Issuer. The requirements of this Section 4.09 are subject to, and shall be interpreted in accordance with, Section 148(f) of the Code and the Treasury Regulations applicable thereto (the "**Regulations**") and shall apply except to the extent the Trustee and the Issuer are furnished with an opinion of Bond Counsel or other evidence satisfactory to the Trustee and the Issuer that the Regulations contain an applicable exception. The Trustee shall make all payments under the written direction of the Borrower or Rebate Analyst on their behalf.

Promptly at the end of each five-year period after the dated date of the Bonds and also upon the retirement of the Bonds, the Trustee shall provide the Borrower with a statement of earnings on funds and accounts held under this Indenture during any period not covered by a prior statement. Each statement shall include the purchase and sale prices of each investment, if any (including any commission paid thereon which shall be separately stated if such information is available), the dates of each investment transaction, information as to whether such transactions were made at a discount or premium and such other information known or reasonably available to the Trustee as the Borrower or rebate analyst shall reasonably request in writing. If so requested in writing by the Borrower at any time, the Trustee shall create within the Bond Fund separate accounts for purposes of accounting for earnings on amounts attributable to the Bonds.

The Trustee shall promptly transfer to the Rebate Fund each amount required to be deposited therein pursuant to the written direction of the Borrower, or the Rebate Analyst on their behalf, pursuant to the Tax Compliance Agreement, first from earnings in the Project Fund, and, second, to the extent amounts in the Project Fund are insufficient, from revenues which have been deposited into the Bond Fund and earnings thereon. To the extent that the amount to be deposited into the Rebate Fund exceeds the amount which can be transferred from such Funds, the Trustee shall promptly notify the Borrower and an amount equal to such deficiency shall be paid promptly by the Borrower to the Trustee for deposit into the Rebate Fund.

The Borrower and the Trustee, on behalf of the Issuer, shall keep such records as will enable them to fulfill their respective responsibilities under this Section 4.09 and Section 148(f) of the Code, and the Borrower shall engage a rebate analyst as may be necessary in connection with such responsibilities. The Trustee, to the extent records of all calculations performed by the rebate analyst are furnished to it in writing, will retain such records until six (6) years after the retirement of the last obligation of the Bonds. The fees and expenses of the rebate analyst shall be paid by the Borrower pursuant to the Loan Agreement to the extent amounts provided hereunder and available in the Rebate Fund are insufficient for such purpose. For purposes of the computation of the Rebate Amount required under the Tax Compliance Agreement, the Trustee shall, at the cost and expense of the Borrower, make available to the Borrower and the Issuer during normal business hours all written information in the Trustee's control which is requested in writing by the Borrower in connection with such computations.

#### **Section 4.10 Investment of Special Funds and Rebate Fund**

Except as otherwise set forth in this Section, money in the Special Funds and the Rebate Fund shall be invested and reinvested by the Trustee in Eligible Investments as designated in and at the written direction of the Authorized Borrower Representative. At no time shall the

Borrower direct that any funds constituting gross proceeds of the Bonds (including, without limitation, moneys deposited in or credited to the Collateral Fund and the Negative Arbitrage Account) be used in any manner as would constitute failure of compliance with Section 148 of the Code.

Except as provided in the following paragraph, investments of money in the [Special Funds] Bond Fund, the Project Fund and the Collateral Fund shall be invested in Government Obligations at the written directions of the Authorized Borrower Representative.

Money in the Bond Fund, the Project Fund, and the Collateral Fund may be invested in an investment described in clause (b) of the definition of Eligible Investments at the written directions of the Authorized Borrower Representative to the extent that (a) it is impractical to invest such money in Government Obligations because the amount to be invested is too small or Government Obligations are not available at that time for purchase, (b) such money is being held in the Remarketing Proceeds Account, (c) such money has been received less than 30 days prior to date on which Bonds are to mature or be paid upon redemption or mandatory tender, or (d) the Borrower has directed the Trustee in writing that such money will be needed to make a disbursement from the Project Fund prior to the date on which available Government Obligations would mature.

Absent written investment instructions, the Trustee shall invest moneys in any Account for which investments are permitted in the Federated Treasury Cash Reserves Fund (TISXX) or a successor money market fund so long as Zions Bancorporation is Trustee.

Investments of money in the Bond Fund and the Collateral Fund shall mature or be redeemable at the direction of the Borrower at the times and in the amounts necessary to provide money to pay Bond Service Charges on the Bonds as they become due on each Interest Payment Date. Each investment of money in the Project Fund shall mature or be redeemable at the written direction of the Borrower to the Trustee at the times and in the amounts as may be necessary to make anticipated payments from the Project Fund. Any of those investments may be purchased from or sold to the Trustee, or any bank, trust company, securities firm or savings and loan association which is an Affiliated Party of the Trustee. The Trustee shall sell or redeem investments credited to the Bond Fund to produce sufficient money applicable hereunder to, and at the times required for the purposes of paying, Bond Service Charges when due as aforesaid, and shall do so without necessity for any order on behalf of the Issuer and without restriction by reason of any order. If the Trustee is required to sell or otherwise dispose of any Eligible Investments prior to maturity at a price below par, the Borrower shall, at the Borrower's expense, deliver to the Trustee (i) a Cash Flow Projection and (ii) Eligible Funds in the amount set forth in such Cash Flow Projection, if any. Anything herein to the contrary notwithstanding, amounts on deposit in the Collateral Fund shall not be invested at a yield in excess of the yield of the Bonds.

An investment made from money credited to the Special Funds shall constitute part of that respective Fund. All investment earnings from amounts on deposit in the Project Fund and the Collateral Fund shall be allocated to the Bond Fund. All gains resulting from the sale of, or income from, any investment made from amounts on deposit in the Special Funds shall be credited to and become part of the Bond Fund. All investment earnings, gains resulting from the sale of, or income from, any investment made from amounts on deposit in the Rebate Fund shall be retained therein. Any investment losses from moneys credited to a Fund shall be charged against the respective Fund. The Trustee shall not be liable for losses on investments made in compliance with the provisions of this Indenture.

Ratings of Eligible Investments shall be determined at the time of purchase of such Eligible Investments and without regard to ratings subcategories. The Trustee may make any and all such investments through its own investment department or that of its affiliates or subsidiaries, and may charge its ordinary and customary fees for such trades, including cash sweep account fees. Although each of the Issuer and the Borrower recognizes that it may obtain a broker confirmation or written statement containing comparable information at no additional cost, each of the Issuer and the Borrower hereby agrees that confirmations of Eligible Investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered. No statement need be rendered for any fund or account if no activity occurred in such fund or account during such month. The Trustee may conclusively rely upon the Authorized Borrower Representative's written instructions as to both the suitability and legality of the directed investments.

Following the Closing Date, at the direction of the Borrower, the Trustee is permitted to purchase, sell or exchange Eligible Investments with a Cash Flow Projection. Notwithstanding anything herein to the contrary, (i) earnings received by the Trustee with respect to Eligible Investments purchased for the purpose of paying Bond Service Charges shall be held uninvested and (ii) Bond proceeds and the Negative Arbitrage Deposit shall be held uninvested until the Trustee has purchased, sold or exchanged Eligible Investments.

The Trustee may make any and all investments permitted by this Section through its own bond or investment department, unless otherwise directed in writing by the Authorized Borrower Representative.

#### **Section 4.11 Money to be Held in Trust**

The funds created under this Indenture shall be in the custody of the Trustee in its trust capacity hereunder; and the Issuer authorizes and directs the Trustee to withdraw moneys from said funds for the purposes specified herein, which authorization and direction the Trustee hereby accepts. All moneys required to be deposited with or paid to the Trustee under any provision of this Article IV shall be held by the Trustee in trust, and except for moneys held in the Rebate Fund or deposited with or paid to the Trustee for the redemption of Bonds, notice of redemption of which has been duly given, shall while held by the Trustee constitute part of the security for the Holders and be subject to the lien hereof.

#### **Section 4.12 Valuation**

For the purpose of determining the amount on deposit to the credit of any Special Fund, the value of obligations in which money in such Fund shall have been invested shall be computed (i) in the case of Government Obligations held in the Special Funds, at the maturity or redemption value (as applicable) as of the maturity or next redemption date and (ii) in the case of all other Eligible Investments, at the then market value thereof. The Trustee shall have no liability for the accuracy of any such valuation.

The Eligible Investments shall be valued by the Trustee as of the end of each calendar month.

#### **Section 4.13 Nonpresentment of Bonds**

In the event any Bond shall not be presented for payment when the principal thereof becomes due in whole or in part, whether at maturity, at the Redemption Date or otherwise, or a check for interest is uncashed, if funds sufficient to pay such Bonds shall have been made

available to the Trustee for the benefit of the Holder or Holders thereof, all liabilities of the Issuer to the Holder thereof for the payment of such Bond, as the case may be, shall thereupon cease and be completely discharged, and it shall be the duty of the Trustee to hold such funds for a period of six years after maturity of all Bonds, without liability for interest thereon, in a separate account in the Bond Fund for the benefit of the Holder of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Indenture or on, or with respect to, said Bond. After the expiration of such six-year period, the Trustee shall return said funds to the Issuer upon its written request and the Holder or Holders of any such unrepresented Bond shall be entitled to payment of said Bond only from said funds held by the Issuer. The obligation of the Trustee under this Section to pay any such funds to the Issuer shall be subject to any provisions of law applicable to the Trustee or to such funds providing other requirements for disposition of unclaimed property.

#### **Section 4.14 Repayment to the Borrower from the Bond Fund**

On any Mandatory Tender Date, any amounts in the Bond Fund in excess of the amount necessary to cover any negative arbitrage (assuming 0.00% interest earnings on all deposits) and after all of the Outstanding Bonds shall be deemed paid and discharged under the provisions of this Indenture shall, upon written instruction to the Trustee from the Borrower, be paid to or at the direction of the Borrower. Except as provided in Section 4.09 and Section 4.13 hereof, any amounts remaining in the Special Funds (a) after all of the Outstanding Bonds shall be deemed paid and discharged under the provisions of this Indenture, and (b) after payment of all fees, charges and expenses of the Trustee and the Issuer and of all other amounts required to be paid under this Indenture, the Loan Agreement, the Tax Compliance Agreement, the Land Use Restriction Agreement and the Note, shall be paid to the Borrower to the extent that those amounts are in excess of those necessary to effect the payment and discharge of the Outstanding Bonds. Provided however that if the Mortgage Loan is in default, such excess shall be paid to the Lender.

#### **Section 4.15 Payment of Fees**

In connection with the issuance of the Bonds and with the Project, the Borrower will pay the following fees in the following manner:

The Trustee will pay, from the Expense Fund, the following fees on behalf of the Borrower:

- (i) To the Issuer, an Issuer Fee in an amount equal to 1.5% of the par amount of the Bonds, payable on the Closing Date from Borrower equity;
- (ii) To the Issuer, a Bond Legal Reserve Fee in an amount equal to 0.10% of the par amount of the Bonds, payable on the Closing Date from Borrower equity; and
- (iii) To the Trustee, the Ordinary Trustee Fees and Expenses; and
- (iv) To the Issuer, a City Administrative Fee in an amount equal to 0.15% of the outstanding principal amount of the Bonds, accruing monthly and payable to the Issuer semi-annually.

**ARTICLE 5  
GENERAL COVENANTS AND REPRESENTATIONS**

**Section 5.01 Payment of Principal or Redemption Price of and Interest on Bonds.**

The Issuer shall promptly pay or cause to be paid the principal or redemption price of, and the interest on, every Bond issued hereunder according to the terms thereof, but shall be required to make such payment or cause such payment to be made only out of revenues available therefor under this Indenture. The Issuer hereby designates the principal corporate trust office of the Trustee as the place of payment for the Bonds.

**Section 5.02 Instruments of Further Assurance.**

The Issuer and the Trustee shall do, execute, acknowledge and deliver, such indentures supplemental hereto, and such further acts, instruments and transfers as the Trustee may reasonably require for the better assuring, transferring, conveying, pledging, assigning and confirming unto the Trustee all its interest in the property herein described and the revenues, receipts and other amounts pledged hereby to the payment of the principal of, premium, if any, and interest on the Bonds paid solely from the Trust Estate. Any and all interest in property hereafter acquired which is of any kind or nature herein provided to be and become subject to the lien hereof shall and without any further conveyance, assignment or act on the part of the Issuer or the Trustee, become and be subject to the lien of this Indenture as fully and completely as though specifically described herein, but nothing contained in this sentence shall be deemed to modify or change the obligations of the Issuer under this Section.

**Section 5.03 Recordation and Filing.**

Pursuant to the Loan Agreement, the Borrower shall cause financing statements with respect to the Trust Estate described in this Indenture to be at all times filed in such manner and in such places if required by law in order to fully preserve and protect the rights of the Issuer and the Trustee hereunder and to perfect the security interest created by this Indenture in the Trust Estate described herein. To the extent possible under applicable law, as in effect in the jurisdiction(s) in which the Trust Estate is located, the Borrower will maintain the priority of the security interest herein created in the Trust Estate as a first lien thereon, and warrant, protect, preserve and defend its interest in the Trust Estate and the security interest of the Trustee herein and all rights of the Trustee under this Indenture against all actions, proceedings, claims and demands of all Persons, all paid for by the Borrower.

**Section 5.04 No Modification of Security.**

The Issuer shall not, without the written consent of the Trustee, alter, modify or cancel, or agree to consent to alter, modify or cancel any agreement which relates to or affects the security for the Bonds. The Trustee shall not consent to any change in the maturity of the Mortgage Note, except as provided in Article VIII hereof.

**Section 5.05 Reports.**

The Trustee shall furnish annually, to the Borrower and any Bondholder who requests copies thereof and furnishes an address to which such reports and statements are to be sent copies of (a) any written reports furnished to the Trustee with regard to the Project and (b) annual statements of the Trustee with regard to fund balances. The Trustee shall be reimbursed by the Borrower for its reasonable costs and expenses in preparing any such statements.

**Section 5.06 Tax Covenants**

(a) The Issuer, to the extent that it has control over any of the following proceeds or payments, and the Trustee, to the extent that it has discretion with respect to investment of such proceeds, covenant and agree that they will not intentionally take any

action or fail to take any action with respect to the investment of the proceeds of any Bonds issued under this Indenture or with respect to the payments derived from the security pledged hereunder or from the Loan Agreement which would result in constituting the Bonds "arbitrage bonds" within the meaning of such term as used in Section 148 of the Code. The Issuer and the Trustee further covenant and agree that they will comply with and take all actions required by the Tax Compliance Agreement. The Trustee shall, at the cost and expense of the Borrower, cause to be prepared all rebate calculations required to be performed pursuant to the Tax Compliance Agreement.

(b) The Issuer covenants that it shall not use or cause the use of any proceeds of Bonds or any other funds of the Issuer, directly or indirectly, in any manner, and shall not take or cause to be taken any other action or actions, or fail to take any action or actions, which would result in interest on any of the Bonds becoming includable in gross income of any Holder thereof. The Issuer further covenants that it shall at all times do and perform all acts and things permitted by law and necessary or desirable in order to assure that interest paid by the Issuer on the Bonds shall be excluded from the gross income of the recipients thereof for federal income tax purposes.

#### **ARTICLE 6 DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND HOLDERS**

**Section 6.01 Events of Default.** Each of the following shall be an "Event of Default":

(a) default in the due and punctual payment of any interest on any Bond, subject to a five (5) day notice and cure period; or

(b) default in the due and punctual payment of the principal of or premium, if any, on any Bond whether at the stated maturity thereof, or on proceedings for redemption thereof, or on the maturity thereof by declaration, subject to a five (5) day notice and cure period; or

(c) failure by the Issuer to observe or perform any other covenant, agreement or obligation on its part to be observed or performed contained in this Indenture or in the Bonds, which failure shall have continued for a period of 30 days after written notice, by registered or certified mail, to the Issuer and the Borrower specifying the failure and requiring that it be remedied, which notice may be given by the Trustee in its discretion and shall be given by the Trustee at the written request of the Holders of a majority in aggregate principal amount of Bonds then Outstanding (unless, notwithstanding any attempt to cure such failure, it cannot be cured within 30 days and, notwithstanding, is cured within 180 days); or

(d) the occurrence and continuation of an event of default under the Loan Agreement of which the Trustee has actual notice or of which the Trustee is deemed to have notice pursuant to Section 7.04(i) hereof.

The Trustee and the Issuer agree that notwithstanding the provisions hereof, no default under the terms of this Indenture shall be construed as resulting in a default under the Mortgage Loan Documents unless such event also constitutes a default thereunder.

**Section 6.02 Acceleration.** Upon the occurrence of an Event of Default described in Section 6.01(a) or (b) hereof, the Trustee may, and upon the written request of the Holders of not

less than a majority in aggregate principal amount of Bonds then Outstanding shall, by written notice delivered to the Borrower and the Issuer, declare the principal of all Bonds then Outstanding (if not then due and payable), and the interest accrued thereon, to be due and payable immediately. If the Trustee is unable to determine that sufficient funds will be available to pay (not out of the Trustee's own funds) the full amount of the principal and accrued but unpaid interest to the Holders of the Bonds as of the date of acceleration, the Trustee shall declare the principal of the Bonds immediately due and payable, but only upon written direction of Controlling Holders of the Bonds then Outstanding. Upon the occurrence of any Event of Default other than those described in Sections 6.01(a) and 6.01(b) hereof, the Trustee may, and upon written consent of all Holders of Bonds then Outstanding shall, declare by a notice in writing delivered to the Borrower, the principal of all Bonds then Outstanding (if not then due and payable), and the interest thereon, to be due and payable immediately. Upon such declaration, that principal and interest shall become and be due and payable immediately. Interest on the Bonds shall accrue to the date determined by the Trustee for the tender of payment to the Holders pursuant to that declaration; provided, that interest on any unpaid principal of Bonds Outstanding shall continue to accrue from the date determined by the Trustee for the tender of payment to the Holders of those Bonds.

The provisions of the preceding paragraph are subject, however, to the condition that if, at any time after declaration of acceleration and prior to the entry of a judgment in a court for enforcement hereunder (after an opportunity for hearing by the Issuer and the Borrower),

(a) all sums payable hereunder (except the principal of and interest on Bonds which have not reached their stated maturity dates but which are due and payable solely by reason of that declaration of acceleration), plus interest to the extent permitted by law on any overdue installments of interest at the rate borne by the Bonds shall have been duly paid or provision shall have been duly made therefor by deposit with the Trustee, and

(b) all existing Events of Default shall have been cured,

then and in every case, the Trustee shall, upon being instructed in writing by the Investor Limited Partner or Construction Lender waive the Event of Default and its consequences and shall rescind and annul that declaration. No waiver or rescission and annulment shall extend to or affect any subsequent Event of Default or shall impair any rights consequent thereon.

The Investor Limited Partner or Construction Lender shall be entitled (but not obligated) to cure any Event of Default hereunder within the time frame provided to the Borrower hereunder. The Issuer and the Trustee agree that cure of any default or Event of Default made or tendered by the Investor Limited Partner or Construction Lender shall be deemed to be a cure by the Borrower and shall be accepted or rejected on the same basis as if made or tendered by the Borrower.

**Section 6.03 Rights of Holders.** If any Event of Default shall have occurred and be continuing, then the Trustee may and, if requested so to do by the Holders of not less than 25% in aggregate principal amount of Bonds affected by such default, and if indemnified as provided herein, the Trustee shall:

(a) by mandamus or other suit, action or proceeding at law or in equity require the Issuer to perform its covenants and duties under this Indenture;

(b) bring suit upon the Bonds;

(c) by action or suit in equity require the Issuer to account for its actions as if it were the trustee of an express trust for the Holders of the Bonds;

(d) by action or suit in equity enjoin any acts or things that may be unlawful or in violation of the rights of the Holders of the Bonds;

(e) take any action to enforce its remedies under the Loan Agreement; or

(f) take such other steps to protect and enforce its rights and the rights of the Holders of the Bonds, whether by action, suit or proceeding in aid of the execution of any power herein granted or for the enforcement of any other appropriate legal or equitable remedy.

**Section 6.04 Rights of Holders to Direct Proceedings.** Subject to the provisions of Section 6.08 hereof, the Holders of a majority in principal amount of the Bonds shall have the right at any time, by an instrument in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture for the benefit of the Bonds, or for the appointment of a receiver or any other proceedings hereunder for the benefit of the Bonds, in accordance with the provisions of law and of this Indenture.

**Section 6.05 Waiver by Issuer.** Upon the occurrence of an Event of Default, to the extent that such right may then lawfully be waived, neither the Issuer nor anyone claiming through or under it shall set up, claim or seek to take advantage of any appraisal, valuation, stay, extension or redemption laws now or hereinafter in force, in order to prevent or hinder the enforcement of this Indenture; and the Issuer, for itself and all who may claim through or under it, hereby waives, to the extent that it lawfully may do so, the benefit of all such laws and all right of appraisal and redemption to which it may be entitled under the laws of the State.

**Section 6.06 Application of Moneys.** If at any time after the occurrence of an Event of Default the money held by the Trustee under this Indenture (other than amounts in the Rebate Fund) shall not be sufficient to pay the principal of and interest on the Bonds as the same become due and payable, such money, together with any moneys then available or thereafter becoming available for such purpose, whether through the exercise of remedies in this Article or otherwise, shall, be applied by the Trustee as set forth in this Section 6.06.

After payment of any costs, expenses, liabilities and advances paid, incurred or made by the Trustee in the collection of money and to all fees of the Trustee for expenses pursuant to any right given or action taken under the provisions of this Article or the provisions of the Loan Agreement, the Land Use Restriction Agreement or the Note (including without limitation, reasonable attorneys' fees and expenses, except as limited by law or judicial order or decision entered in any action taken under this Article VI), all money received by the Trustee, shall be applied as follows, subject to Section 2.03 hereof and any provision made pursuant to Section 4.10 or Section 4.11 hereof:

(a) Unless the principal of all of the Bonds shall have become, or shall have been declared to be, due and payable, all of such money shall be deposited in the Bond Fund and shall be applied:

First: To the payment to the Holders entitled thereto of all installments of interest then due on the Bonds, in the order of the dates of maturity of the installments of that interest, beginning

with the earliest date of maturity and, if the amount available is not sufficient to pay in full any particular installment, then to the payment thereof ratably, according to the amounts due on that installment, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds; and

Second: To the payment to the Holders entitled thereto of the unpaid principal of any of the Bonds which shall have become due, in the order of their due dates, beginning with the earliest due date, with interest on those Bonds from the respective dates upon which they became due at the rates specified in those Bonds, and if the amount available is not sufficient to pay in full all Bonds due on any particular date, together with that interest, then to the payment thereof ratably, according to the amounts of principal due on that date, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds.

(b) If the principal of all of the Bonds shall have become due or shall have been declared to be due and payable pursuant to this Article, all of such money shall be deposited into the Bond Fund and shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest, of interest over principal, of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest specified in the Bonds.

(c) If the principal of all of the Bonds shall have been declared to be due and payable pursuant to this Article, and if that declaration thereafter shall have been rescinded and annulled under the provisions of Section 6.02 or Section 6.10 hereof, subject to the provisions of paragraph (b) of this Section in the event that the principal of all of the Bonds shall become due and payable later, the money shall be deposited in the Bond Fund and shall be applied in accordance with the provisions of Article II.

(d) Whenever money is to be applied pursuant to the provisions of this Section, such money shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of money available for application and the likelihood of additional money becoming available for application in the future. Whenever the Trustee shall direct the application of such money, it shall fix the date upon which the application is to be made, and upon that date, interest shall cease to accrue on the amounts of principal, if any, to be paid on that date, provided the money is available therefor. The Trustee shall give notice of the deposit with it of any money and of the fixing of that date, all consistent with the requirements of Section 2.03 hereof for the establishment of, and for giving notice with respect to, a Special Record Date for the payment of overdue interest. The Trustee shall not be required to make payment of principal of a Bond to the Holder thereof, until the Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if it is paid fully.

**Section 6.07 Remedies Vested in Trustee.** All rights of action, including the right to file proof of claims, under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Bonds, and any recovery of judgment shall be for the benefit as provided herein of Holders of the Outstanding Bonds.

**Section 6.08 Remedies of Holders.** No Holder of any Bonds shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of any provision of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless: (a) a default shall have occurred of which the Trustee shall have been notified as provided herein; (b) such default shall have become an Event of Default; (c) the Holders of at least 25% in aggregate principal amount of the Outstanding Bonds shall have made written request to the Trustee and shall have offered reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (d) such Holders shall have offered to the Trustee indemnity as provided herein; and (e) the Trustee shall within 60 days thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding, and such notification, request and offer of indemnity are hereby declared in every case at the option of the Trustee to be conditions precedent to the execution of the powers and trusts under this Article VI, and to any action or cause of action for the enforcement of this Indenture, or for any other remedy hereunder; it being understood and intended that no one or more Holders of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture or the rights of any other Holders of the Bonds or to obtain priority or preference over any other Holders (other than as provided herein) or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all Holders of Bonds. Nothing contained in this Indenture shall, however, affect or impair the right of any Holder to enforce the payment of the principal of, the premium, if any, and interest on any Bond at the maturity thereof or the obligation of the Issuer to pay the principal of, premium, if any, and interest on the Bonds issued hereunder to the respective Holders thereof, at the time, in the place, from the sources and in the manner expressed herein and in said Bonds.

**Section 6.09 Termination of Proceedings.** In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Issuer and the Trustee shall be restored to their former positions and rights hereunder with respect to the Trust Estate herein conveyed, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

**Section 6.10 Waivers of Events of Default.** The Trustee shall waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of and interest on the Bonds upon the written request of the Holders of a majority of the Outstanding Bonds; provided, however, that there shall not be waived (a) any default in the payment of the principal of any Bonds at the date of maturity specified therein, or upon proceedings for mandatory redemption, or (b) any default in the payment when due of the interest or premium on any such Bonds, unless prior to such waiver or rescission all arrears of interest, with interest (to the extent permitted by law) at the rate borne by the Bonds on overdue installments of interest or all arrears of payments of principal or premium, if any, when due (whether at the stated maturity thereof or upon proceedings for mandatory redemption) as the case may be, and all fees, costs, and expenses (including reasonable fees and expenses of counsel) of the Trustee, in connection with such default shall have been paid or provided for, and in case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the Issuer, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereto.

**Section 6.11 Notice of Defaults; Opportunity to Cure Defaults.** If an Event of Default shall occur, the Trustee shall give written notice of the Event of Default, by Electronic Means or by registered or certified mail, to the Issuer, the Borrower, the Construction Lender, the Investor Limited Partner and the Remarketing Agent, within five days after the Trustee has actual notice of the Event of Default pursuant to Section 7.04(i) hereof. If an Event of Default occurs of which the Trustee has actual notice pursuant to this Indenture, the Trustee shall give written notice thereof, within 30 days after the Trustee's receipt of notice of its occurrence, to the Holders of all Bonds then Outstanding as shown by the Register at the close of business 15 days prior to the mailing of that notice; provided, that except in the case of a default in the payment of the principal of or interest on any Bond, the Trustee shall be protected in withholding such notice if the Trustee in good faith determines that the withholding of notice to the Holders is in the interests of the Holders.

## **ARTICLE 7 THE TRUSTEE AND REMARKETING AGENT**

**Section 7.01 Certain Duties and Responsibilities.** Except during the continuance of an Event of Default:

(i) The Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether they conform to the requirements of this Indenture.

(b) In case an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(i) This subsection (c) shall not be construed to limit the effect of subsection (a) of this Section;

(ii) The Trustee shall not be liable for any error of judgment made in good faith by a responsible officer, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts; and

(iii) The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with directions received pursuant to Section 6.04 or the direction of the Holders of a majority in principal amount of Outstanding Bonds relating to the time, method and place of conducting

any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture.

(d) No provisions of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers.

(e) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

**Section 7.02 Notice of Default.** Within 30 days after the occurrence of any default hereunder of which the Trustee is deemed to have notice hereunder, the Trustee shall transmit by first class mail, to the Holders of all Bonds then Outstanding notice of such default hereunder known to the Trustee, unless such default shall have been cured or waived prior thereto; provided, however, that, except in the case of a default in the payment of the principal of (or premium, if any) or interest on any Bond when due, the Trustee shall be protected in withholding such notice if and so long as the Trustee in good faith determines that the withholding of such notice is in the interests of the Holders of the Bonds. For the purpose of this Section the term "default" means any event which is, or after notice or lapse of time or both would become, an Event of Default.

**Section 7.03 Reserved**

**Section 7.04 Certain Rights of Trustee.** Except as otherwise provided in Section 7.01 hereof:

(a) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order or other paper or document conforming to the requirements, if any, of this Indenture, and believed by it to be genuine, and to have been signed or presented by the proper party or parties;

(b) any Request or Statement of the Issuer mentioned herein shall be sufficiently evidenced by an order or Request of the Issuer signed by an Authorized Issuer Representative and any resolution or ordinance of the governing body of the Issuer may be sufficiently evidenced by a Certificate of the Issuer;

(c) any notice, request, direction, election, order or demand of the Borrower mentioned herein shall be sufficiently evidenced by an instrument purporting to be signed in the name of the Borrower by an Authorized Borrower Representative (unless other evidence in respect thereof be herein specifically prescribed);

(d) whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon a Certificate of the Issuer;

(e) the Trustee may consult with counsel, architects and engineers and other experts, and the written advice of such counsel, architects or engineers and other experts shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(f) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders of the Bonds pursuant to this Indenture, unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

(g) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such fact or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Issuer and the Borrower, including the Project, personally or by agent or attorney;

(h) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder whether directly or by or through agents or attorneys, but the Trustee shall be responsible for any misconduct or negligence on the part of any agent or attorney so appointed;

(i) the Trustee shall not be required to take notice or be deemed to have notice of any default hereunder (except for any default due to the Trustee's failure to make any of the payments required to be made by Article IV hereof) unless the Trustee shall be specifically notified in writing of such default by the Issuer or the Holders of at least 25% in principal amount of Bonds affected thereby;

(j) all notices or other instruments required by this Indenture to be delivered to the Trustee must, in order to be effective, be delivered at the principal corporate trust office of the Trustee at the Notice Address referred to in Section 1.01 hereof;

(k) the rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder (including, without limitation, as Dissemination Agent); and

(l) the Trustee may request that the Issuer deliver a certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture.

(m) Upon written request by the Rating Agency, the Trustee shall furnish to the Rating Agency the balance of funds on hand with the Trustee and other information as may be reasonably required to maintain the rating on the Bonds.

**Section 7.05 Not Responsible for Recitals or Issuance of Bonds.** The recitals contained herein and in the Bonds, except the certificates of authentication, shall be taken as the statements of the Issuer, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Bonds.

**Section 7.06 Trustee May Hold Bonds.** The Trustee in its individual or any other capacity may become the owner or pledgee of Bonds and may otherwise deal with the Issuer with the same rights it would have if it were not Trustee.

**Section 7.07 Reserved**

**Section 7.08 Successor Trustee.** Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party shall, *ipso facto*, be and become successor Trustee hereunder and vested with all title to the whole property or Trust Estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instruments or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

**Section 7.09 Resignation by the Trustee.** The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving 60 days' written notice by registered or certified mail to the Issuer and to each Holder of the Bonds then Outstanding; provided that no such resignation shall take effect until a successor Trustee shall have been appointed and shall have accepted such appointment as provided in Section 7.11. If no successor Trustee shall have been appointed and have accepted appointment within 60 days following the giving of all required notices of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee. The cost of such petition shall be paid by the Borrower.

**Section 7.10 Removal of the Trustee.** The Trustee may be removed at any time by an instrument or document or concurrent instruments or documents in writing delivered to the Trustee, with copies thereof mailed to the Issuer, the Remarketing Agent and the Borrower and Managing Member, and signed by or on behalf of the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding.

The Trustee also may be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provision of this Indenture with respect to the duties and obligations of the Trustee by any court of competent jurisdiction upon the application of the Issuer or the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding under this Indenture.

The removal of the Trustee under this Section 7.10 shall take effect upon the appointment of a successor Trustee as provided for in Section 7.11 of this Indenture.

**Section 7.11 Appointment of Successor Trustee by the Holders; Temporary Trustee.** If (a) the Trustee shall resign, shall be removed, shall be dissolved, or shall become otherwise incapable of acting hereunder, (b) the Trustee shall be taken under the control of any public officer or officers, or (c) a receiver shall be appointed for the Trustee by a court, then a successor Trustee shall be appointed by the Issuer, with the written consent of the Borrower and Managing Member; provided, that if a successor Trustee is not so appointed within 10 days after (i) a notice of resignation or an instrument or document of removal is received by the Issuer, as provided in Sections 7.09 and 7.10 hereof, respectively, or (ii) the Trustee is dissolved, taken under control, becomes otherwise incapable of acting or a receiver is appointed, in each case, as provided above, then, so long as the Issuer shall not have appointed a successor Trustee, the Holders of a majority in aggregate principal amount of Bonds then Outstanding may designate a successor Trustee by an instrument or document or concurrent instruments or documents in writing signed by or on behalf of those Holders. If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section, the Holder of any Bond Outstanding

hereunder or any retiring Trustee may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

**Section 7.12 Concerning Any Successor Trustee.** Every successor Trustee appointed pursuant to this Section (a) shall be a trust company or a bank having the powers of a trust company, (b) shall be in good standing within the State, (c) shall be duly authorized to exercise trust powers within the State, (d) shall have a reported capital, surplus and retained earnings of not less than \$50,000,000, and (e) shall be willing to accept the trusteeship under the terms and conditions of this Indenture.

Every successor Trustee appointed hereunder shall execute and acknowledge, and shall deliver to its predecessor, the Issuer and the Borrower and Managing Member an instrument or document in writing accepting the appointment. Thereupon, without any further act, the successor shall become vested with all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of its predecessor. Upon the written request of its successor, the Issuer or the Borrower or Managing Member, and payment of all fees and expenses owed to it, the predecessor Trustee (a) shall execute and deliver an instrument or document transferring to its successor all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of the predecessor Trustee hereunder, and (b) shall take any other action necessary to duly assign, transfer and deliver to its successor all property (including without limitation, all securities and moneys) held by it as Trustee. Should any instrument or document in writing from the Issuer be requested by any successor Trustee for vesting and conveying more fully and certainly in and to that successor the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens vested or conveyed or intended to be vested or conveyed hereby in or to the predecessor Trustee, the Issuer shall execute, acknowledge and deliver that instrument or document.

**Section 7.13 Trustee as Paying Agent and Bond Registrar; Additional Paying Agents.** The Trustee is hereby designated and agrees to act as Paying Agent and Registrar for and in respect to the Bonds.

The Issuer from time to time may appoint one or more additional Paying Agents and, in the event of the resignation or removal of any Paying Agent, successor Paying Agents. Any such additional Paying Agent or successor Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by this Indenture by executing and delivering to the Issuer and the Trustee a written acceptance thereof.

**Section 7.14 Successor Trustee as Trustee, Paying Agent and Bond Registrar.** In the event of a change in the office of Trustee, the predecessor Trustee which shall have resigned or shall have been removed shall cease to be Trustee and Paying Agent on the Bonds and Bond Registrar, and the successor Trustee shall become such Trustee, Paying Agent and Bond Registrar.

**Section 7.15 Representations by Trustee.** The Trustee hereby represents and warrants that as of the date of execution of this Indenture:

(a) It is duly organized and validly existing in good standing under the laws of the jurisdiction of its organization and has the power and authority to enter into and perform its obligations under this Indenture;

(b) this Indenture has been duly authorized, executed and delivered by it; and

(c) to the best of the Trustee's knowledge, the execution of this Indenture by the Trustee does not violate laws, statutes, ordinances, regulations or agreements which are binding on the Trustee.

**Section 7.16 Concerning the Remarketing Agent.** The Remarketing Agent identified in Section 1.01 hereof shall serve as the Remarketing Agent for the Bonds. The Remarketing Agent shall designate to the Trustee its Designated Office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument of acceptance delivered to the Issuer, the Borrower, the Construction Lender, the Investor Limited Partner and the Trustee. In addition, the Remarketing Agent will agree particularly to:

(a) Keep such records relating to its computations of interest rates for the Bonds as shall be consistent with prudent industry practice and to make such records available for inspection by the Issuer, the Trustee and the Borrower, the Construction Lender and the Investor Limited Partner at all reasonable times; and

(b) perform all of its functions and duties under this Indenture.

The Remarketing Agent shall be entitled to advice of legal counsel on any matter relating to the Remarketing Agent's obligations hereunder and shall be entitled to act upon the opinion of such counsel in the exercise of reasonable care in fulfilling such obligations.

The Remarketing Agent shall be entitled to appoint additional co-Remarketing Agents to assist in the performance of the Remarketing Agent's obligations under this Indenture, and any such appointment shall be effective without any action by the Issuer or the Borrower being necessary; provided that any such co-Remarketing Agent, shall have a capitalization of at least \$5,000,000, or shall have a line of credit with a commercial bank in the amount of at least \$5,000,000, shall be in conformity with all standards and requirements of the Municipal Securities Rulemaking Board and the Securities and Exchange Commission, and shall be authorized by law to perform all the duties imposed upon it by this Indenture. The Remarketing Agent shall take responsibility for any co-Remarketing Agent it appoints.

**Section 7.17 Qualification of Remarketing Agent.** The Remarketing Agent shall be a member in good standing of the Financial Industry Regulatory Authority having a capitalization of at least \$5,000,000, or shall have a line of credit with a commercial bank in the amount of at least \$5,000,000, and shall be authorized by law to perform all the duties imposed upon it by this Indenture. Subject to the terms of the Remarketing Agreement, the Remarketing Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 30 days' notice of such resignation to the Issuer, the Borrower, the Construction Lender, Investor Limited Partner and the Trustee. The Remarketing Agent may be removed, with prior notice to the Issuer, at any time by the Borrower, with at least 30 days' notice of such removal to the Remarketing Agent.

Upon any resignation or removal of the Remarketing Agent, the departing Remarketing Agent shall pay over, assign and deliver any money and Bonds held by it in such capacity to its successor.

The Trustee, within 30 days of the resignation or removal of the Remarketing Agent or the appointment of a successor Remarketing Agent, shall give notice thereof by registered or certified mail to the Rating Agency (if the Bonds are then rated) and to the Holders of the Bonds.

**Section 7.18 Information for Rating Agency and Notice of Certain Events.** The Trustee shall provide the Rating Agency upon its written request such information within the Trustee's possession as the Rating Agency shall reasonably require from time to time in order to maintain the rating on the Bonds;

The Trustee shall notify the Rating Agency and the Remarketing Notice Parties of (a) the occurrence of an Event of Default of which the Trustee has actual notice, (b) any change in the identity of the Trustee, (c) any amendments, modifications, supplements or changes to this Indenture, the Loan Agreement, the Note or the Bonds, including any extension of principal or modification of interest or redemption premium due on any of the Bonds, in each case only in the event the Trustee has actual notice, (d) any change or notification of proposed change of the Mandatory Tender Date or Remarketing Date pursuant to the remarketing of the Bonds, (e) any partial prepayment of the Loan or the giving of notice of the call for redemption of any Bonds in connection with the prepayment of the Loan, (f) any defeasance or acceleration of the Bonds hereunder, (g) any change in the Remarketing Agent or the Lender of which the Trustee has actual knowledge, (h) the occurrence of any monetary or other material default under the Loan of which the Trustee has actual notice, (i) any change or proposed change in the structure or identity of the Borrower of which the Trustee has actual knowledge, (j) any change in the investment of funds subject to the lien of this Indenture, (k) any sale of Eligible Investments below par, as shown in a Cash Flow Projection delivered to the Rating Agency prior to the sale date.

## **ARTICLE 8 SUPPLEMENTAL INDENTURE**

**Section 8.01 Supplemental Indentures Not Requiring Consent of Bondholders.** The Issuer and the Trustee, without the consent of or notice to any of the Bondholders, may enter into a bond indenture or bond indentures supplemental to this Indenture as shall not be inconsistent with the terms and provisions hereof or materially adverse to the interest of the Holders of the Bonds for any one or more of the following reasons:

- (a) to cure any ambiguity or formal defect or omission in this Indenture;
- (b) to subject to the lien and pledge of this Indenture additional revenues, properties or collateral;
- (c) to grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Bondholders or the Trustee or any of them;
- (d) to modify, amend or supplement this Indenture or any bond indenture supplemental hereto in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939 or any similar federal statute hereafter in effect or under any state securities laws;

(e) to permit the Trustee to comply with any obligations imposed upon it by law;

(f) to achieve compliance of this Indenture with any applicable federal securities or tax laws or state securities laws;

(g) to maintain the exclusion from gross income for federal income taxation of interest on the Bonds;

(h) to obtain, improve or maintain the rating on the Bonds from any nationally recognized securities rating agency so long as such change does not affect the interest rates, maturities or redemption provisions of the Bonds and does not, in the opinion of Bond Counsel, adversely affect the exclusion from gross income for federal income taxation of interest on the Bonds; or

(i) in connection with any other change in this Indenture which, in the judgment of the Trustee, is not to the prejudice of the Trustee or the Bondholders.

The Trustee may rely upon an opinion of counsel as conclusive evidence that execution and delivery of a supplemental bond indenture have been effected in compliance with the provisions of this Article.

**Section 8.02 Supplemental Indentures Requiring Consent of Bondholders.**

Exclusive of Supplemental Indentures to which reference is made in Section 8.01 hereof and subject to the terms, provisions and limitations contained in this Section, and not otherwise, with the consent of the Holders of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding, evidenced as provided in this Indenture, and with the written consent of the Borrower if required by Section 8.05 hereof, the Issuer and the Trustee may execute and deliver Supplemental Indentures adding any provisions to, changing in any manner or eliminating any of the provisions of this Indenture or any Supplemental Indenture or restricting in any manner the rights of the Holders. Nothing in this Section shall permit, however, or be construed as permitting:

(a) without the consent of the Holder of each Bond so affected, (i) an extension of the maturity of the principal of or the interest on any Bond or (ii) a reduction in the principal amount of any Bond or the rate of interest thereon, or

(b) a reduction in the rate of interest paid on any Bond or an extension of any Interest Payment Date, or

(c) without the consent of the Holders of all Bonds then Outstanding, (i) the creation of a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (ii) a reduction in the aggregate principal amount of the Bonds required for consent to a Supplemental Indenture.

If the Issuer shall request that the Trustee execute and deliver any Supplemental Indenture for any of the purposes of this Section, upon (i) being satisfactorily indemnified with respect to its expenses in connection therewith, and (ii) if required by Section 8.05 hereof, receipt of the Borrower's written consent to the proposed execution and delivery of the Supplemental Indenture, the Trustee shall, at the written direction of the Issuer, cause notice of the proposed execution and delivery of the Supplemental Indenture (which notice shall be prepared by the Borrower) to be mailed by first-class mail, postage prepaid, to all Holders of Bonds then

Outstanding at their addresses as they appear on the Register at the close of business on the fifteenth day preceding that mailing.

The Trustee shall not be subject to any liability to any Holder by reason of the Trustee's failure to mail, or the failure of any Holder to receive, the notice required by this Section. Any failure of that nature shall not affect the validity of the Supplemental Indenture when there has been consent thereto as provided in this Section. The notice shall set forth briefly the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the Designated Office of the Trustee for inspection by all Holders.

If the Trustee shall receive, within a period prescribed by the Borrower, of not less than 60 days, but not exceeding one year, following the mailing of the notice, an instrument or document or instruments or documents, in form to which the Trustee does not reasonably object, purporting to be executed by the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding (which instrument or document or instruments or documents shall refer to the proposed Supplemental Indenture in the form described in the notice and specifically shall consent to the Supplemental Indenture in substantially that form), the Trustee shall, but shall not otherwise, execute and deliver the Supplemental Indenture in substantially the form to which reference is made in the notice as being on file with the Trustee, without liability or responsibility to any Holder, regardless of whether that Holder shall have consented thereto.

The Trustee may rely upon an opinion of counsel as conclusive evidence that the execution and delivery of any Supplemental Indenture have been effected in compliance with the provisions of this Article.

Any consent shall be binding upon the Holder of the Bond giving the consent and, anything herein to the contrary notwithstanding, upon any subsequent Holder of that Bond and of any Bond issued in exchange therefor (regardless of whether the subsequent Holder has notice of the consent to the Supplemental Indenture). A consent may be revoked in writing, however, by the Holder who gave the consent or by a subsequent Holder of the Bond by a revocation of such consent received by the Trustee prior to the execution and delivery by the Trustee of the Supplemental Indenture. At any time after the Holders of the required percentage of Bonds shall have filed their consents to the Supplemental Indenture, the Trustee shall make and file with the Issuer a written statement that the Holders of the required percentage of Bonds have filed those consents. That written statement shall be conclusive evidence that the consents have been so filed.

If the Holders of the required percentage in aggregate principal amount of Bonds Outstanding shall have consented to the Supplemental Indenture, as provided in this Section, no Holder shall have any right (a) to object to (i) the execution or delivery of the Supplemental Indenture, (ii) any of the terms and provisions contained therein, or (iii) the operation thereof, (b) to question the propriety of the execution and delivery thereof, or (c) to enjoin or restrain the Trustee or the Issuer from that execution or delivery or from taking any action pursuant to the provisions thereof.

**Section 8.03 Amendments to Loan Agreement Not Requiring Consent of the Bondholders.** The Issuer and the Borrower, without the consent of the Bondholders, may enter into any amendment, change or modification to the Loan Agreement as shall not be inconsistent with the terms of the Loan Agreement or materially adverse to the interests of the Holder of the Bonds or the Trustee for any one or more of the following purposes:

- (a) to cure any ambiguity or formal defect or omission in the Loan Agreement;
- (b) to grant to or confer upon the Issuer or the Trustee for the benefit of the Bondholders any additional rights, remedies, powers or authority that may be lawfully granted to or conferred upon the Issuer or the Trustee or either of them;
- (c) to maintain the exclusion from gross income for federal income taxation of interest of the Bonds;
- (d) to obtain, improve or maintain the rating on the Bonds so long as such change does not affect the interest rates, maturities or redemption provisions of the Bonds and does not, in the opinion of Bond Counsel, adversely affect the exclusion from gross income for federal income taxation of interest on the Bonds; or
- (e) in connection with any other change which, in the judgment of the Trustee, is not to the prejudice of the Trustee or the Bondholders.

The Trustee may rely upon an opinion of counsel as conclusive evidence that such amendment, change or modification has been effected in compliance with the provisions of this Article.

**Section 8.04 Amendments to Loan Agreement Requiring Consent of Bondholders.**

With the consent of the Holders of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding, the Issuer, the Trustee and the Borrower may from time to time enter into amendments, changes and modifications to the Loan Agreement for the purpose of modifying, altering, amending, adding to or rescinding any of the terms or provisions contained therein; provided, however, that no such amendment, change or modification shall permit or be construed as permitting: (a) any adverse effect on the security for the Bonds without consent of all Bondholders, (b) a reduction in the amount of Bonds, the Holders of which are required to approve any such amendment, change or modification without the consent of Holders of all Bonds at the time Outstanding which would be affected by the action to be taken; or (c) any action which may result in the denial of the exclusion of the interest on the Bonds from gross income for federal income tax purposes.

If at any time, the Borrower or the Issuer shall request the consent of the Trustee to any such amendment, change or modification of the Loan Agreement, the Trustee shall, upon being satisfactorily indemnified by the Borrower with respect to expenses, cause notice of such proposed amendment, change or modification to be given in the same manner as provided above with respect to supplemental bond indentures. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the corporate trust office of the Trustee for inspection by all Bondholders. If, within 60 days following the giving of such notice the Holders of not less than two-thirds in aggregate principal amount of Outstanding Bonds at the time of the execution of any such amendment, change or modification shall have consented to and approved the execution thereof as described above, no Holder of any Bond shall have any right to object to the terms and provisions contained therein, or to the operation thereof, or in any manner to question the propriety of the execution thereof or to enjoin or to restrain the Issuer or the Trustee from consenting to the execution thereof. The Trustee may rely upon an opinion of counsel as conclusive evidence that such amendment, change or modification has been effected in compliance with the provisions of this Article.

**Section 8.05 Consent of Borrower and Investor Limited Partner.** Anything contained herein to the contrary notwithstanding, any Supplemental Indenture executed and delivered in accordance with this Article VIII which affects in any material respect any rights or obligations of the Borrower shall not become effective unless and until the Borrower and Investor Limited Partner shall have consented in writing to the execution and delivery of that Supplemental Indenture.

**Section 8.06 Responsibilities of Trustee.** Notwithstanding anything else contained herein, the Trustee shall not be required to enter into any Supplemental Indenture which affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

**Section 8.07 Authorization to Trustee; Effect of Supplement**

The Trustee is authorized to join with the Issuer in the execution and delivery of any Supplemental Indenture in accordance with this Article and to make the further agreements and stipulations which may be contained therein. Thereafter,

- (a) That Supplemental Indenture shall form a part of this Indenture;
- (b) All terms and conditions contained in that Supplemental Indenture as to any provision authorized to be contained therein shall be deemed to be a part of the terms and conditions of this Indenture for any and all purposes;
- (c) This Indenture shall be deemed to be modified and amended in accordance with the Supplemental Indenture; and
- (d) The respective rights, duties and obligations under this Indenture of the Issuer, the Borrower, the Trustee, the Remarketing Agent and all Holders of Bonds then Outstanding shall be determined, exercised and enforced hereunder in a manner which is subject in all respects to those modifications and amendments made by the Supplemental Indenture.

Express reference to any executed and delivered Supplemental Indenture may be made in the text of any Bonds issued thereafter, if that reference is deemed necessary or desirable by the Trustee or the Issuer. A copy of any Supplemental Indenture for which provision is made in this Article, except a Supplemental Indenture described in Section 8.01(g) hereof, shall be mailed to the Holders by the Trustee. The Trustee shall not be required to execute any supplemental indenture containing provisions adverse to the Trustee.

**Section 8.08 Opinion of Counsel.** The Trustee shall be entitled to receive, and shall be fully protected in relying upon, the opinion of any counsel approved by it as conclusive evidence that (a) any proposed Supplemental Indenture complies with the provisions of this Indenture, and (b) it is proper for the Trustee to join in the execution of that Supplemental Indenture under the provisions of this Article. That counsel may be counsel for the Issuer or the Borrower.

Before the Issuer and the Trustee shall enter into any Supplemental Indenture, there shall have been delivered to the Trustee an opinion of Bond Counsel to the effect that such Supplemental Indenture will not adversely affect the Federal Tax Status of the Bonds.

**Section 8.09 Modification by Unanimous Consent.** Notwithstanding anything contained elsewhere in this Indenture, the rights and obligations of the Issuer and of the Holders,

and the terms and provisions of the Bonds and this Indenture or any Supplemental Indenture, may be modified or altered in any respect with the consent of (a) the Issuer, (b) the Holders of all of the Bonds then Outstanding, (c) the Borrower, the Construction Lender and the Investor Limited Partner and (d) if such modification or alteration contains provisions adverse to the Trustee, the Trustee.

## **ARTICLE 9 SATISFACTION AND DISCHARGE OF INDENTURE**

**Section 9.01 Discharge of Lien.** If (a) the Issuer shall pay all of the Outstanding Bonds, or shall cause them to be paid and discharged, or if there otherwise shall be paid to the Holders of the Outstanding Bonds, all Bond Service Charges due or to become due thereon, and (b) provision also shall be made for the payment of all other sums payable hereunder or under the Loan Agreement, the Land Use Restriction Agreement and the Note, then this Indenture shall cease, terminate and become null and void (except for those provisions surviving by reason of Section 9.03 hereof in the event the Bonds are deemed paid and discharged pursuant to Section 9.02 hereof), and the covenants, agreements and obligations of the Issuer hereunder shall be released, discharged and satisfied.

Thereupon, and subject to the provisions of Section 9.03 hereof if applicable,

(a) the Trustee shall release this Indenture (except for those provisions surviving by reason of Section 9.03 hereof in the event the Bonds are deemed paid and discharged pursuant to Section 9.02 hereof), and shall execute and deliver to the Issuer any instruments or documents in writing, prepared by or on behalf of the Issuer, as shall be requisite to evidence that release and discharge or as reasonably may be requested by the Issuer;

(b) the Trustee shall release and satisfy the Note and deliver such release and satisfaction to the Borrower; and

(c) the Trustee shall assign and deliver to the Issuer any property subject at the time to the lien of this Indenture which then may be in its possession, except amounts in the Bond Fund required (i) to be paid to the Borrower under Section 4.14 hereof, or (ii) to be held by the Trustee under Section 4.13 hereof or otherwise for the payment of Bond Service Charges.

**Section 9.02 Payment and Discharge of Bonds.** All or any part of the Bonds shall be deemed to have been paid and discharged within the meaning of this Indenture, including without limitation, Section 9.01 hereof, if:

(a) the Trustee as paying agent shall have received, in trust for and irrevocably committed thereto, sufficient money, or

(b) the Trustee shall have received, in trust for and irrevocably committed thereto, noncallable Government Obligations which are certified by an Independent public accounting firm of national reputation to be of such maturities or redemption dates and interest payment dates, and to bear such interest, as will be sufficient together with any money to which reference is made in subparagraph (a) above, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom

(which earnings are to be held likewise in trust and so committed, except as provided herein), for the payment of all Bond Service Charges on those Bonds at their maturity.

Any money held by the Trustee in accordance with the provisions of this Section may be invested by the Trustee only in noncallable Government Obligations having maturity dates, or having redemption dates which, at the option of the owner of those obligations, shall be not later than the date or dates at which money will be required for the purposes described above. To the extent that any income or interest earned by, or increment to, the investments held under this Section is determined from time to time by the Trustee to be in excess of the amount required to be held by the Trustee for the purposes of this Section, that income, interest or increment shall be transferred at the time of that determination in the manner provided in Section 4.14 hereof for transfers of amounts remaining in the Bond Fund.

If any Bonds shall be deemed paid and discharged pursuant to this Section 9.02, then within 15 days after such Bonds are so deemed paid and discharged the Trustee shall cause a written notice to be given to each Holder as shown on the Register on the date on which such Bonds are deemed paid and discharged. Such notice shall state the numbers of the Bonds deemed paid and discharged or state that all Bonds are deemed paid and discharged, and shall set forth a description of the obligations held pursuant to subparagraph (b) of the first paragraph of this Section 9.02.

**Section 9.03 Survival of Certain Provisions.** Notwithstanding the foregoing, any provisions of this Indenture which relate to the maturity of Bonds, interest payments and dates thereof, optional and mandatory redemption provisions, credit against mandatory sinking fund requirements, exchange, transfer and registration of Bonds, replacement of mutilated, destroyed, lost or stolen Bonds, the safekeeping and cancellation of Bonds, non-presentment of Bonds, the holding of moneys in trust, and repayments of moneys in funds held hereunder, and the duties of the Trustee and the Bond Registrar in connection with all of the foregoing, shall remain in effect and be binding upon the Trustee, the Bond Registrar, the Paying Agent and the Holders notwithstanding the release and discharge of this Indenture. The provisions of this Article shall survive the release, discharge and satisfaction of this Indenture.

## **ARTICLE 10 MISCELLANEOUS**

**Section 10.01 Consents and Other Instruments of Bondholders.** Any consent, request, direction, approval, waiver, objection, appointment or other instrument required by this Indenture to be signed and executed by the Bondholders may be signed and executed in any number of concurrent writings of similar tenor and may be signed or executed by such Bondholders in person or by agent appointed in writing. Proof of the execution of any such instrument, if made in the following manner, shall be sufficient for any of the purposes of this Indenture and shall be conclusive in favor of the Trustee with regard to any action taken under such instrument, namely:

(a) The fact and date of the execution by any Person of any such instrument may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the Person signing such instrument acknowledged to him the execution thereof. Where such execution is by an officer of a corporation or association or a member of a limited liability company or a partner of a

partnership on behalf of such corporation, association, limited liability company or partnership, such affidavit or certificate shall also constitute sufficient proof of his authority.

(b) The ownership of Bonds shall be proven by the Bond Register.

(c) Any request, consent or vote of the Holder of any Bond shall bind every future Holder of any Bond issued in exchange therefor or in lieu thereof, in respect of anything done or permitted to be done by the Trustee or the Issuer pursuant to such request, consent or vote.

(d) In determining whether the Holders of the requisite amount of the principal amount of the Bonds then Outstanding have concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are owned by the Issuer or the Borrower or by any Person directly or indirectly controlling or controlled by, or under direct or indirect common control with the Issuer or the Borrower shall be disregarded and deemed not to be Outstanding for the purpose of determining whether the Trustee shall be protected in relying on any such demand, request, direction, consent or waiver. Only Bonds which the Trustee actually knows to be so owned shall be disregarded. Bonds so owned which have been pledged in good faith may be regarded as Outstanding for the purposes of this Section if the pledgee shall establish to the satisfaction of Issuer and the Trustee the pledgee's right to vote such Bonds. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

**Section 10.02 Limitation of Rights.** With the exception of rights conferred expressly in this Indenture, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give to any Person other than the parties hereto, the Remarketing Agent, the Borrower, the Construction Lender, the Investor Limited Partner and the Holders of the Bonds any legal or equitable right, remedy, power or claim under or with respect to this Indenture or any covenants, agreements, conditions and provisions contained herein. This Indenture and all of those covenants, agreements, conditions and provisions are intended to be, and are, for the sole and exclusive benefit of the parties hereto, the Remarketing Agent, the Borrower, the Managing Member and the Holders of the Bonds, as provided herein.

**Section 10.03 Severability.** If any provision of this Indenture shall be held or deemed to be or shall in fact be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution, statute, rule of law or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or sections in this Indenture contained shall not affect the remaining portions of this Indenture or any part thereof

**Section 10.04 Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given three days after deposit by first-class mail, except any notice specifically required to be given by certified or registered mail shall be deemed given three days after being mailed by certified or registered mail, postage prepaid, and any notice dispatched by messenger, facsimile or telegram, addressed to the Notice Address of the person

to whom such notices, certificates or other communications are given shall be deemed given when delivered.

**Section 10.05 Payments Due on Saturdays, Sundays and Holidays.** In any case where the date of maturity of interest on or principal of the Bonds, or the date fixed for redemption of any Bonds, shall be a Saturday, Sunday, legal holiday or a day on which banking institutions are authorized by law to close, then payment of interest or principal need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

**Section 10.06 Priority of this Indenture.** This Indenture shall be superior to any liens which may be placed upon the Revenues or any other funds or accounts created pursuant to this Indenture.

**Section 10.07 Counterparts.** This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The exchange of copies of this Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture and signature pages for all purposes.

**Section 10.08 Governing Law.** The laws of the State shall govern the construction of this Indenture and of all Bonds issued hereunder, without reference to its conflict of laws principles.

**Section 10.09 No Recourse.** No recourse shall be had for the principal of, redemption premium, if any, and interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement contained in the Indenture or the Loan Agreement against any past, present or future official, officer or employee of the Issuer or the Trustee, as such, either directly or through the Issuer or the Trustee or any successor to either, under any rule of law, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability is hereby expressly waived and released as a condition of and consideration for the execution of the Indenture and the Loan Agreement and the issuance of the Bonds.

**Section 10.10 Successors and Assigns.** All the covenants and representations contained in this Indenture, by or on behalf of the Issuer and the Trustee, shall bind and inure to the benefit of their respective successors and assigns, whether expressed or not.

**Section 10.11 Books, Records and Accounts.** The Trustee agrees to keep proper books, records and accounts in which complete and correct entries shall be made of all transactions relating to the receipt, disbursements, investment, allocation and application of the proceeds received from the sale of the Bonds, the revenues received from the Funds created pursuant to this Indenture and all other money held by the Trustee hereunder. The Trustee shall make such books, records and accounts available for inspection by the Issuer, the Construction Lender, the Investor Limited Partner or the Holder of any Bond during reasonable hours and under reasonable conditions.

**Section 10.12 Reserved\*.**

**Section 10.13 Force Majeure.** In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by,

directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

**Section 10.14 U.S.A. Patriot Act.** The parties hereto acknowledge that in accordance with Section 326 of the U.S.A. Patriot Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they will provide the Trustee with such information as it may reasonably request in order for the Trustee to satisfy the requirements of the U.S.A. Patriot Act.

**Section 10.15 Waiver of Jury Trial.** EACH OF THE ISSUER, THE HOLDERS AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE BONDS OR THE TRANSACTION CONTEMPLATED HEREBY.

**IN WITNESS WHEREOF**, the parties hereto have caused this Indenture to be duly executed and their respective corporate seals to be hereunto affixed and attested, all as of the date and year first above written.

**CITY OF CHICAGO**

By: \_\_\_\_\_  
Name: Jill Jaworski  
Title: Chief Financial Officer

(Seal)

Attest:

\_\_\_\_\_  
Name: Andrea M. Valencia  
Title: City Clerk

**ZIONS BANCORPORATION, NATIONAL  
ASSOCIATION, as Trustee**

By: \_\_\_\_\_  
Name: Anna McCully  
Title: Vice President

[(Sub)Exhibit "B" referred to in this Bond Indenture unavailable at time of printing.]

(Sub)Exhibit "A" referred to in this Bond Indenture reads as follows:

(Sub)Exhibit "A".  
(To Bond Indenture)

Form Of Bond.

**UNITED STATES OF AMERICA  
STATE OF ILLINOIS  
CITY OF CHICAGO**

**Multi-Family Housing Revenue Bonds  
(Prairie District Apartments Project), Series 2024**

No. R-1	AGGREGATE PRINCIPAL AMOUNT:		
			\$ _____
	<u>Maturity Date</u>	<u>Dated Date</u>	<u>Initial Interest Rate</u>
	_____ 1, 202__	_____, 2024	_____%
			<u>CUSIP No.</u>
			167570 ____

Registered Owner: CEDE & CO.

Aggregate Principal Amount: \_\_\_\_\_ DOLLARS AND 00/100

INITIAL MANDATORY TENDER DATE: \_\_\_\_\_ 1, 202\_\_

The City of Chicago, a municipality and home rule unit of government duly organized and validly existing under the Constitution and the laws of the State of Illinois (the "Issuer"), for value received, hereby promises to pay (but only from the revenues and other assets and in the manner hereinafter described) to the Registered Owner specified above or registered assigns, the Principal Amount specified above on the Maturity Date specified above (subject to the rights of redemption and tender set forth herein), and to pay from those sources interest on the unpaid principal balance of said Principal Amount calculated at the Interest Rate on (a) \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year beginning \_\_\_\_\_ 1, 2024, (b) each Redemption Date, and (c) each Mandatory Tender Date (the "Interest Payment Dates") until the principal amount is paid or duly provided for. This Bond will bear interest from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from its date, or, if no interest has been paid or provided for, from the date of initial delivery (the "Closing Date").

This Bond shall bear interest from the Dated Date to but not including the Initial Mandatory Tender Date at the Initial Interest Rate set forth above and thereafter this Bond shall bear interest at the Remarketing Rate (as defined in the Indenture) for each subsequent Remarketing Period (as defined in the Indenture). Interest on the Bonds shall be calculated on the basis of a 360-day year consisting of twelve 30-day months, for the actual number of days elapsed.

The principal of this Bond is payable at the designated corporate trust office of the trustee, presently Zions Bancorporation, National Association, a national banking association (the "Trustee"). Interest is payable on each Interest Payment Date by check mailed to the person in whose name this Bond (or one or more predecessor bonds) is registered (the "Holder") at the close of business on the 15<sup>th</sup> day of the calendar month next preceding that Interest Payment Date (the "Regular Record Date") on the registration books for this issue maintained by the Trustee, as registrar, at the address appearing therein. Any interest which is not timely paid or duly provided for shall cease to be payable to the Holder hereof (or of one or more predecessor bonds) as of the Regular Record Date, and shall be payable to the Holder hereof (or of one or more predecessor bonds) at the close of business on a Special Record Date to be fixed by the Trustee for the payment of that overdue interest. Notice of the Special Record Date shall be mailed to Holders not less than 10 days prior thereto. The principal of and interest on this Bond are payable in lawful money of the United States of America, without deduction for the services of the paying agent. While the Bonds are held in a book-entry system and in certain other circumstances, all as provided in the Indenture, principal of and interest on this Bond is required to be paid by wire transfer or other arrangement, other than any payment of the entire unpaid principal amount hereof.

This Bond is one of a duly authorized series of bonds of the City designated as its Multi-Family Housing Revenue Bonds (Prairie District Apartments Project), Series 2024 (the "Bonds"), in the aggregate principal amount of \$\_\_\_\_\_ (the "Bonds"), pursuant to Article VII, Section 6 of the 1970 Constitution of the State of Illinois, and pursuant to the Ordinance adopted by the Issuer on \_\_\_\_\_, 202\_\_\_. The Bonds are issued under and are equally and ratably secured as to principal, premium, if any, and interest by an Indenture dated as of \_\_\_\_\_ 1, 2024, from the Issuer to the Trustee (the "Indenture"), to which Indenture and all indentures supplemental thereto (copies of which are on file at the office of the Trustee) reference is hereby made. By the acceptance of this Bond, the Holder hereof assents to all of the provisions of the Indenture.

The Bonds, together with premium, if any, and interest thereon, do not constitute an indebtedness, liability, general or moral obligation or a pledge of the full faith or loan of credit of the Issuer, the State of Illinois, or any political subdivision of the State of Illinois within the meaning of any constitutional or statutory provisions. None of the Issuer, the State of Illinois or any political subdivision thereof shall be obligated to pay the principal of, premium, if any, or interest on the Bonds or other costs incident thereto except from the revenues and assets pledged with respect thereto. Neither the full faith and credit nor the taxing power of the United States of America, the Issuer, the State of Illinois or any political subdivision thereof is pledged to the payment of the principal of, premium, if any, or interest on the Bonds or other costs incident thereto. The Bonds are not a debt of the United States of America or any agency thereof, and are not guaranteed by the United States of America or any agency thereof.

This Bond shall not be entitled to any benefit under the Indenture or become valid or obligatory for any purpose until the certificate of authentication shall have been signed by the Trustee.

The Bonds are being issued by the Issuer for the purpose of financing a loan (the "Loan") to be made to MHL 2 Prairie District Apartments-Wabash LP, an Illinois limited partnership (the "Borrower"). The Loan will be used by the Borrower to pay a portion of the costs of acquiring, rehabilitating and equipping the Project, as defined in the Indenture and as further described in the Loan Agreement dated as of even date with the Indenture (the "Loan Agreement"), between the Issuer and the Borrower. The Bonds are special limited obligations of the Issuer, issued or to

be issued under and are secured and entitled equally and ratably to the protection given by the Indenture, including payments under the Loan made to the Trustee by the Borrower.

The Bonds are subject to redemption and tender prior to their stated maturity as follows:

(a) Optional Redemption. The Bonds are subject to optional redemption in whole or in part by the Issuer at the written direction of the Borrower on any date on or after the later to occur of (a) the date that the Project is placed in service, as certified in writing by the Borrower to the Trustee, and (b) the Optional Redemption Date (as defined in the Indenture) at a redemption price equal to 100% of the principal amount of the Bonds plus accrued interest to the Redemption Date.

(b) Reserved.

(c) Mandatory Redemption. The Bonds shall be redeemed in whole at a redemption price of 100% of the principal amount of such Bonds, plus accrued interest to the Redemption Date, on any Mandatory Tender Date upon the occurrence of any of the following events: (i) the Borrower has previously elected not to cause the remarketing of the Bonds, (ii) the conditions to remarketing set forth in the Indenture have not been met by the dates and times set forth therein, or (iii) the proceeds of a remarketing on deposit in the Remarketing Proceeds Account at 11:00 a.m. Local Time on the Mandatory Tender Date are insufficient to pay the purchase price of the Outstanding Bonds on such Mandatory Tender Date. Bonds subject to redemption in accordance with this paragraph shall be redeemed from (i) amounts on deposit in the Collateral Fund, (ii) amounts on deposit in the Negative Arbitrage Account of the Bond Fund, (iii) amounts on deposit in the Project Fund, and (iv) any other Eligible Funds available or made available for such purpose at the written direction of the Borrower.

(d) Purchase in Lieu of Redemption. At the election of the Borrower upon a redemption in whole of the Bonds, by written notice to the Trustee and the Remarketing Agent given not less than five (5) Business Days in advance of such redemption date, the Bonds will be deemed tendered for purchase in lieu of the redemption on such date and the call for redemption shall be cancelled. The purchase price of Bonds so purchased in lieu of redemption shall be the principal amount thereof together with all accrued and unpaid interest to the date of redemption and any prepayment fee, if due, and shall be payable on the date of redemption thereof. Bonds so purchased in lieu of redemption shall remain Outstanding and shall be registered to or upon the direction of the Borrower.

(e) Mandatory Tender. The Bonds are subject to mandatory tender in whole on each Mandatory Tender Date. Holders will not have the right to elect to retain their Bonds. Upon presentation and surrender of the Bonds by the Holder on the date fixed for tender, the Holder shall be paid the principal amount of the Bonds to be tendered, plus accrued interest on such Bonds to the tender date.

Reference is made to the Indenture for a more complete description of the Project, the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the Issuer, the Trustee and the Holders of the Bonds, and the terms and conditions upon which the Bonds are issued and secured. Each Holder assents, by its acceptance hereof, to all of the provisions of the Indenture.

The Borrower is required by the Loan Agreement to cause the Lender (as defined in the Indenture) to provide on its behalf the Lender's portion of the Eligible Funds (as defined in the

Indenture) to the Trustee in the amounts and at the times necessary to pay the principal of and interest (the "Bond Service Charges") on the Bonds. In the Indenture, the Issuer has assigned to the Trustee, to provide for the payment of the Bond Service Charges on the Bonds, the Issuer's right, title and interest in and to the Loan Agreement, except for Reserved Rights as defined in the Indenture. To secure its compliance with certain covenants in the Loan Agreement, the Borrower has executed and delivered a Regulatory and Land Use Restriction Agreement, dated as of \_\_\_\_\_ 1, 2024 (the "Land Use Restriction Agreement") among the Issuer, the Borrower and the Trustee.

Copies of the Indenture, the Loan Agreement and the Land Use Restriction Agreement are on file in the designated corporate trust office of the Trustee.

The Bond Service Charges on the Bonds are payable solely from the Revenues, as defined and as provided in the Indenture (being, generally, the amounts payable under the Loan Agreement and any unexpended proceeds of the Bonds), and are an obligation of the Issuer only to the extent of the Revenues. The Bonds are not secured by an obligation or pledge of any money raised by taxation and do not represent or constitute a debt or pledge of the faith and credit of the Issuer.

The Bonds are issuable only as fully registered bonds and, except as hereinafter provided, in printed or typewritten form, registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), which shall be considered to be the Holder for all purposes of the Indenture, including, without limitation, payment by the Issuer of Bond Service Charges, and receipt of notices to, giving of consents by and exercise of rights of, Holders. There shall be a single Bond representing each maturity, and all Bonds shall be immobilized in the custody of DTC with the owners of beneficial interests in those Bonds (the "book-entry interests") having no right to receive from the Issuer Bonds in the form of physical securities or certificates. Ownership of book-entry interests in the Bonds shall be shown by book-entry on the system maintained and operated by DTC, its participants (the "Participants") and certain persons acting through the Participants, and transfers of ownership of book-entry interests shall be made only by that book-entry system, the Issuer and the Trustee having no responsibility therefor. DTC is to maintain records of the positions of Participants in the Bonds, and the Participants and persons acting through Participants are to maintain records of the purchasers and owners of book-entry interests in the Bonds. The Bonds as such shall not be transferable or exchangeable, except for transfer to another Securities Depository (as defined in the Indenture) or to another nominee of a Securities Depository, without further action by the Issuer and otherwise at the expense of the Borrower.

If any Securities Depository determines not to continue to act as a Securities Depository for the Bonds for use in a book-entry system, the Issuer may attempt to have established a securities depository/book-entry system relationship with another qualified Securities Depository under the Indenture. If the Issuer does not or is unable to do so, the Issuer and the Trustee, after the Trustee has made provision for notification of the owners of book-entry interests by the then Securities Depository, shall permit withdrawal of the Bonds from the Securities Depository, and authenticate and deliver Bond certificates in fully registered form (in denominations of \$5,000, or any integral multiple of \$1,000 in excess thereof) to the assignees of the Securities Depository or its nominee, all at the cost and expense (including costs of printing or otherwise preparing and delivering replacement Bond certificates) of those Persons requesting such authentication and delivery, if the event is not the result of Issuer action or inaction (including action at the request of the Borrower).

The Holder of this Bond shall have no right to enforce the provisions of the Indenture, or to institute action to enforce the covenants therein, or to take any action with respect to any default thereunder, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Indenture.

Neither the Issuer nor the Borrower shall be liable for an acceleration of the Bonds or payment of additional interest thereon in the event that interest on the Bonds is declared or becomes includable in gross income for federal income tax purposes.

Modifications or alterations of the Indenture or of any indenture supplemental thereto may be made only to the extent and in the circumstances permitted by the Indenture.

This Bond is transferable by the Holder hereof in person or by his attorney duly authorized in writing at the principal corporate trust office of the Trustee, but only in the manner and subject to the limitations provided in the Indenture upon payment of any tax, fee or other governmental charge required to be paid with respect to such transfer, and upon surrender and cancellation of this Bond. Upon such transfer a new registered Bond or bonds of the same maturity and interest rate and of authorized denomination or denominations for the same aggregate principal amount will be issued to the transferee in exchange therefor.

The Issuer and the Trustee may deem and treat the registered owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and interest due hereon and for all other purposes and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

Subject to the limitations of the Indenture and upon payment of any tax, fee or other governmental charge required to be paid with respect to such exchange, Bonds may be exchanged for a like aggregate principal amount of Bonds of the same maturity and interest rate.

The principal hereof may be declared or may become due on the conditions and in the manner and at the time set forth in the Indenture upon the occurrence of an event of default as provided in the Indenture.

No recourse shall be had for the payment of the principal of, premium, if any, or interest on this Bond, or for any claim based hereon, or otherwise in respect hereof, or based on or in respect of the Indenture or any indenture supplemental thereto, against any trustee, officer or employee, as such, past, present or future, of the Issuer or any successor, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration for the issue hereof, expressly waived and released. The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

UNIF GIFT MIN ACT --

\_\_\_\_\_  
Custodian  
(Cust) (Minor)  
Under Uniform Gift to Minors  
Act \_\_\_\_\_  
(State)

TEN COM – as tenants in common  
TEN ENT – as tenants by the entireties  
JT TEN – as joint tenants with right of  
Survivorship and not as  
Tenants in common

Additional abbreviations may also be used though not in the above list.

It is hereby certified, recited and declared that all facts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law and that the issuance of this Bond, together with all other obligations of the Issuer, does not exceed or violate any constitutional or statutory limitation.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed in its name by the manual or facsimile signature of an authorized officer and its corporate seal to be hereunto impressed or imprinted hereon and attested to by the manual or facsimile signature of an authorized officer of the Issuer, all as of the Dated Date identified above.

**CITY OF CHICAGO, ILLINOIS**

By: \_\_\_\_\_  
Name: Brandon Johnson  
Title: Mayor

Attest:

By: \_\_\_\_\_  
Name: Andrea M. Valencia  
Title: City Clerk

**FORM OF CERTIFICATE OF AUTHENTICATION**

This Bond is one of the Bonds described in the Indenture referred to in this Bond.

**ZIONS BANCORPORATION, NATIONAL  
ASSOCIATION, as Trustee**

By: \_\_\_\_\_  
Authorized Signature

Date of Authentication: \_\_\_\_\_, 2024

Date from which interest is payable: Dated Date

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the issuer or its agent for registration or transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is required by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as if required by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

**FORM OF ASSIGNMENT**

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto

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

(Please Print or Type Name and Address of Assignee)

Social Security or Taxpayer Identification Number: \_\_\_\_\_

The within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

\_\_\_\_\_

Attorney to transfer the said Bond on the books of the within-named Issuer maintained by the Trustee for the registration thereof, with full power of substitution in the premises.

\_\_\_\_\_  
Notice: The signature to this assignment must correspond with the name as it appears on the face of the within note in every particular, without alteration or enlargement or any change whatever. The signature must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

Signature guaranteed by:

\_\_\_\_\_  
[Bank, Trust Company or Firm]

\_\_\_\_\_  
Authorized Signature

(Signature(s) must be guaranteed by a broker or other financial institution which is a participant in the Securities Transfer Agent's Medallion Program (STAMP, SEMP, MSP)).

*Exhibit "C".  
(To Ordinance)*

*Loan Agreement.*

THIS LOAN AGREEMENT (the "**Agreement**") dated as of \_\_\_\_\_, 2024, by and among CITY OF CHICAGO, a municipality and home rule unit of government duly organized and validly existing under the Constitution and the laws of the State of Illinois (the "**Issuer**"), MHL 2 PRAIRIE DISTRICT APARTMENTS - WABASH LP, an Illinois limited partnership (the "**Borrower**") and ZIONS BANCORPORATION, NATIONAL ASSOCIATION, as trustee (the "**Trustee**" or "**Trustee**") under that certain Indenture dated as of \_\_\_\_\_, 2024, from the Issuer to the Trustee securing the Bonds described below (the "**Indenture**").

**WITNESSETH:**

**WHEREAS**, as a home rule unit of local government and pursuant to the Constitution of the State of Illinois, the Issuer is authorized to issue its revenue Bonds and bonds in order to aid in providing an adequate supply of residential housing for low- and moderate-income persons or families within the City of Chicago, which constitutes a valid public purpose for the issuance of revenue Bonds and bonds by the Issuer; and

**WHEREAS**, the Issuer has determined to issue, sell and deliver its \$ \_\_\_\_\_ Multi-Family Housing Revenue Bonds (Prairie District Apartments Project), Series 2024 (the "**Bonds**") pursuant to the Indenture, from the Issuer to the Trustee, and to lend the proceeds thereof to the Borrower for the purpose of financing the acquisition, rehabilitation and equipping of a six-story building located generally at 1801 S. Wabash Avenue in Chicago, Illinois (the "**Property**"), to contain 100 studios (the "**Units**") affordable for rental to households earning at or below 80 percent of the area median income with at least 40 percent or more of the Units occupied by households earning 60 percent or less of the area median income, as well as a ground floor devoted to residential amenities and community space (collectively, the "**Project**") to be known as Prairie District Apartments; and

**WHEREAS**, the Issuer, the Borrower, and the Trustee have entered into this Loan Agreement providing for the loan of the proceeds of the Bonds to the Borrower for the purposes described in the preceding paragraph; and

**WHEREAS**, this Loan Agreement provides for the issuance by the Borrower of the Promissory Note (as hereinafter defined); and

**WHEREAS**, the Issuer will pledge and assign the Promissory Note and this Loan Agreement to the Trustee for the benefit of the Holders under the Assignment (contained in the Indenture);

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and agreements contained herein, and for other good and valuable consideration (the receipt, sufficiency and adequacy of which are hereby acknowledged), the parties hereto agree as follows, provided that in the performance of the agreements of the Issuer herein contained, any obligation it may thereby incur for the payment of money shall not constitute an indebtedness or give rise to a pecuniary liability of the Issuer, the State of Illinois or any political subdivision thereof, or a charge against the Issuer's general credit or the taxing powers of the State of Illinois or any political subdivision thereof, but shall be payable solely and only from the Revenues (as defined in the Indenture):

## **ARTICLE I DEFINITIONS**

**Section 1.01 Definitions.** Terms used in this Loan Agreement and defined in the Indenture shall have the meanings given to such terms in the Indenture.

**Section 1.02 Interpretation.** Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words importing the singular number shall include the plural number, and vice versa, unless the context shall otherwise indicate. References to Articles, Sections and other subdivisions of this Loan Agreement are to the Articles, Sections and other subdivisions of this Loan Agreement as originally executed. The headings of this Loan Agreement are for convenience and shall not define or limit the provisions hereof.

## **ARTICLE II REPRESENTATIONS AND WARRANTIES**

**Section 2.01 Representations and Warranties of Issuer.** The Issuer represents and warrants that:

(a) The Issuer is a municipal corporation and home rule unit of local government duly organized and validly existing under the Constitution and laws of the State of Illinois. Under the Constitution and laws of the State of Illinois, the Issuer has the power to enter into the transaction contemplated by this Loan Agreement, the Indenture, the Bonds, the Land Use Restriction Agreement and the Assignment (collectively, the "**Issuer Documents**"), and to carry out its obligations hereunder and thereunder, including the full right, power and authority to pledge and assign this Loan Agreement and the Promissory Note to the Trustee as provided herein. By proper action of the City Council of the Issuer, the Issuer has been duly authorized to execute and deliver the Issuer Documents.

(b) The Issuer is issuing the Bonds for the purpose of financing a portion of the costs of the Project.

(c) The Bonds are to be issued under home rule powers of the Issuer under the Constitution of the State of Illinois and secured by the Indenture, pursuant to which the right, title and interest of the Issuer in, to and with respect to this Loan Agreement, the Promissory Note and all documents to be executed by the Borrower in connection with the Bonds (other than with respect to the Issuer Reserved Rights) will be assigned and pledged to the Trustee as security for payment of the principal of and interest on the Bonds as provided in the Indenture.

(d) The Issuer hereby finds and determines that the Project is in the best interests of the Issuer, and that all requirements of the Constitution and laws of the State of Illinois have been complied with.

(e) To the knowledge of the undersigned representatives of the Issuer, neither the execution and delivery of the Bonds, this Loan Agreement, the Land Use Restriction Agreement, the Tax Compliance Agreement or the Indenture, the consummation of the transactions contemplated hereby and thereby, nor the fulfillment of or compliance with the terms, conditions or provisions of the Bonds, this Loan Agreement, the Land Use Restriction Agreement or the Indenture conflict with or result in a material breach of any of the terms, conditions or

provisions of any agreement, instrument, judgment, order, or decree to which the Issuer is now a party or by which it is bound, or constitute a material default under any of the foregoing.

(f) The Project is located entirely within the corporate boundaries of the City of Chicago, Illinois.

(g) To the knowledge of the undersigned representatives of the Issuer, there is no action, suit, proceeding or investigation pending or threatened against the Issuer which seeks to restrain or enjoin the issuance or delivery of the Bonds, or the execution and delivery of this Loan Agreement or any other Issuer Documents, or which in any way contests or affects any authority for the issuance or delivery of the Bonds, or the execution and delivery of this Loan Agreement or any other Issuer Documents, or the validity of the Bonds, this Loan Agreement, or in any way contests the corporate existence or powers of the Issuer, or in any way affects the exclusion from gross income for federal income tax purposes of interest on the Bonds.

THE ISSUER MAKES NO REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE CREDITWORTHINESS OR THE ABILITY OF THE BORROWER TO MAKE THE PAYMENTS DUE UNDER THIS LOAN AGREEMENT OR THE PROMISSORY NOTE AND DOES NOT REPRESENT OR WARRANT AS TO ANY OF THE STATEMENTS, MATERIALS (FINANCIAL OR OTHERWISE), REPRESENTATIONS OR CERTIFICATIONS FURNISHED OR TO BE MADE AND FURNISHED BY THE BORROWER IN CONNECTION WITH THE ISSUANCE, SALE, EXECUTION AND DELIVERY OF THE BONDS, OR AS TO THE CORRECTNESS, COMPLETENESS OR ACCURACY OF SUCH STATEMENTS.

**Section 2.02 Representations and Warranties of Borrower.** The Borrower represents and warrants that:

(a) The Borrower is a an Illinois limited partnership, duly organized, validly existing and in good standing under the laws of the State of Illinois (the "**Borrower**"), the general partner of which is MHL 2 Prairie District Apartments-Wabash GP LLC, an Illinois limited liability company (the "**General Partner**"), of which Mercy Housing Lakefront, an Illinois not-for-profit corporation, is the manager and a member (the "**Managing Member**"), of which Mercy Housing, Inc., an Illinois not-for-profit corporation, is the sole member (the "**Sole Shareholder**"). The Managing Member of the General Partner is a corporation duly organized and validly existing and in good standing under the laws of the State of Illinois.

(b) The Borrower (i) is authorized to do business in the State of Illinois and every other jurisdiction in which the nature of its business or its properties makes such qualification necessary; (ii) has full power and authority to own its properties and to conduct its business as now being conducted, and to enter into, and to perform and observe in all material respects the covenants and agreements in its part contained in, this Loan Agreement, the Promissory Note, the Land Use Restriction Agreement, the Tax Compliance Agreement and the Continuing Disclosure Agreement (collectively, the "**Borrower Documents**"); and (iii) is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to it.

(c) The Managing Member (i) is authorized to do business in the State of Illinois and every other jurisdiction in which the nature of its business or its properties makes such qualification necessary; (ii) has full power and authority to own its properties and to conduct its business as now being conducted and to enter into, and to perform and observe in all material respects the covenants and agreements in its part contained in the Borrower Documents; and (iii)

is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to it.

(d) The Borrower will use and operate the Project in a manner consistent with the Act and in accordance with the applicable Land Use Restriction Agreement for as long as required by the Act and the Code and knows of no reason why the Project will not be so operated. If, in the future, there is a cessation of that operation, it will use its best efforts to resume that operation or accomplish an alternate use by the Borrower or others approved by the Issuer which will be consistent with the Act, the Code and the applicable Land Use Restriction Agreement.

(e) The Project will be completed in accordance with the Plans and Specifications and the portion of the Project funded with the proceeds of the Bonds will constitute a qualified residential rental project within the meaning of Section 142(d) of the Code and will be operated and maintained in such manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other applicable Governmental regulations and as to be consistent with the Act.

(f) The Project will be located entirely within the jurisdiction of the Issuer.

(g) The Borrower has obtained or will obtain all consents, approvals, permits, authorizations and orders of any governmental or regulatory agency that are required to be obtained by the Borrower as a condition precedent to the issuance of the Bonds, the execution and delivery of the Borrower Documents or the performance by the Borrower of its obligations thereunder, or that were or are required for the acquisition, rehabilitation, equipping and/or operation of the Project.

(h) No litigation at law or in equity or proceeding before any governmental agency involving the Borrower is pending or, to the best of its knowledge, threatened in which any liability of the Borrower is not adequately covered by insurance or in which any judgment or order would have a material adverse effect upon the business or assets of the Borrower or that would affect its existence or authority to do business, the acquisition, rehabilitation, equipping or operation of the Project, the validity of any Borrower Documents or the performance of its obligations thereunder.

(i) The Borrower is not in default in the payment of the principal of or interest on any of its indebtedness for borrowed money and is not in material default under any instrument under and subject to which any indebtedness has been incurred, and no event has occurred and is continuing that, under the provisions of any such agreement, with the lapse of time or the giving of notice, or both, would constitute an event of default by the Borrower thereunder.

(j) The Borrower is not in default under or in violation of, and the execution, delivery and compliance by the Borrower with the terms and conditions of the Borrower Documents do not and will not conflict with or constitute or result in a default by the Borrower in any material respect under or violate, (i) the Borrower's Organizational Documents, (ii) any agreement or other instrument to which the Borrower is a party or by which it or its assets are bound, or (iii) to the best of its knowledge, any constitutional or statutory provision or order, rule, regulation, decree or ordinance of any court, government or governmental authority having jurisdiction over the Borrower or its property, and to the best of the Borrower's knowledge, no event has occurred and is continuing which, with the lapse of time or the giving of notice, or both, would constitute or result in such a default or violation.

(k) The Borrower has received and reviewed a copy of the Indenture and approves the terms and conditions thereof and agrees to the terms thereof.

(l) The Borrower has filed or caused to be filed all of its federal, state and local tax returns that are required to be filed or has obtained appropriate extensions therefor, and has paid or caused to be paid all taxes as shown on said returns or on any assessment received by it, to the extent that such taxes have become due.

(m) Neither the Borrower nor any related Person thereto shall acquire any Bonds in any amount.

(n) The Borrower acknowledges, represents and warrants that it understands the nature and structure of the transactions relating to the financing of the Project; that it is familiar with the provisions of all of the documents and instruments relating to such financing to which it or the Issuer is a party or of which it is a beneficiary; that it understands the risks inherent in such transactions, including, without limitation, the risk of loss of the Project; and that it has not relied on the Issuer or its counsel for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by this Loan Agreement and the Indenture or otherwise relied on the Issuer or its counsel in any manner.

(o) The Project is, as of the Closing Date, in compliance with all applicable requirements of the Land Use Restriction Agreement and the Tax Compliance Agreement, including all applicable requirements of the Code. The Borrower intends to cause the residential units in the Project to be rented or available for rental on a basis which satisfies the requirements of the Land Use Restriction Agreement and the Tax Compliance Agreement, including all applicable requirements of the Code. All future leases will comply with all applicable laws, the Land Use Restriction Agreement and the Tax Compliance Agreement. The Project currently meets the requirements of this Loan Agreement, the Land Use Restriction Agreement, the Tax Compliance Agreement and the Code with respect to multifamily rental housing.

(p) The proceeds of the Bonds shall be used or deemed used exclusively to pay costs that (i) are (A) capital expenditures (as defined in Section 1.150-1(a) of the Code's regulations) and (B) not made for the acquisition of existing property, to the extent prohibited in Section 147(d) of the Code; (ii) are made exclusively with respect to a "qualified residential rental project" within the meaning of Section 142(d) of the Code and that for the greatest number of buildings the proceeds of the Bonds shall be deemed allocated on a pro rata basis to each building in the Project and the land on which it is located so that each building and the land on which it is located will have been financed fifty percent (50%) or more by the proceeds of the Bonds for the purpose of complying with Section 42(h)(4)(B) of the Code, and the Borrower further covenants that it will not exercise any option to redeem the Bonds under the Indenture except upon the express written consent of the investor limited partner of the Borrower; provided, however, the foregoing representation, covenant and warranty is made for the benefit of the Borrower and its partners and neither the Trustee nor the Issuer shall have any obligation to enforce this covenant nor shall they incur any liability to any Person, including without limitation, the Borrower, the partners of the Borrower, any other affiliate of the Borrower or the holders of the Bonds for any failure to meet the intent expressed in the foregoing representation, covenant and warranty; and provided further, failure to comply with this representation, covenant and warranty shall not constitute a default or "Event of Default" under this Loan Agreement or the Indenture; and (iii) are costs related to the issuance of the Bonds.

(q) All building, zoning, safety, health, fire, water district, sewerage and environmental protection agency permits and other licenses and permits that are required by any governmental body for the acquisition, rehabilitation, equipping, use, occupancy and operation of the Project have been obtained and are in full force and effect (except for those which are not yet required to have been obtained in connection with the acquisition, rehabilitation and equipping of the Project, and which will be obtained at or prior to the time required by law in connection with the acquisition, rehabilitation and equipping of the Project).

The Borrower acknowledges that the representations and covenants herein made by the Borrower have been expressly and specifically relied upon by the Issuer in determining to make the Loan to the Borrower and the Loan would not have been made but for such representations and covenants. All material information provided by the Borrower to the Issuer concerning the Project and the Borrower was and is on the date of execution of this Loan Agreement true and correct

**Section 2.03 Borrower's Representations Regarding Bonds and Project.** With respect to the use of proceeds of the Bonds and the operation of the Project, the Borrower represents as follows and the Issuer relies upon such representations in executing this Loan Agreement:

(a) The estimated cost of acquiring and constructing the Project, inclusive of financing costs, is in excess of \$\_\_\_\_\_.

(b) At least 95% of the net proceeds of the Bonds will be used to finance Qualified Project Costs which constitute a "qualified residential rental project" within the meaning of Section 142(d) of the Code and such costs either (i) will have been paid with respect to work performed or materials purchased .

(c) The average maturity of the Bonds does not exceed 120% of the average reasonably expected economic life of the Project determined in accordance with Section 147(b) of the Code.

(d) Neither the Borrower nor any "related person" (within the meaning of the Code) will acquire, pursuant to any arrangement, formal or informal, any of the Bonds in an amount related to the principal amount of the Bonds.

(e) Less than 25% of the net proceeds of the Bonds will be used for the acquisition of the land on which the Project is located.

(f) None of the proceeds of the Bonds will be used to provide any airplane, skybox or other private luxury box, health club facility, any facility primarily used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises, and none of the proceeds of the Bonds will be used for the acquisition of land to be used for farming or industrial park purposes.

(g) Until payment in full of all of the Bonds, unless the Investor Limited Partner and the Trustee shall otherwise consent in writing, it will not incur, create, assume or suffer to exist any mortgage, pledge, security interest, lien, charge or other encumbrance of any nature on the Project or the Trust Estate (as defined in the Indenture) other than (i) any liens, taxes or other governmental charges which are not yet due and payable, (ii) any pledge relating to syndication of ownership interests in the Project, (iii) any lien, including, but without limiting the generality of

the foregoing, mechanics' liens, or other liens resulting from a good-faith dispute on the part of the Borrower, which dispute the Borrower agrees to resolve diligently, (iv) the Borrower Documents, (v) other liens or encumbrances contemplated by the approving ordinance adopted by the Issuer in connection with the issuance of the Bonds, and (vi) such other pledges as may be approved in writing by the Investor Limited Partner and the Trustee.

(h) The Indenture has been submitted to the Borrower for its examination, and the Borrower acknowledges, by execution of this Loan Agreement, that it has reviewed and approved the Indenture.

(i) Borrower has not taken, or permitted to be taken on its behalf, and agrees that it will not take, or permit to be taken on its behalf, any action which would adversely affect the exclusion from gross income for federal income tax purposes of the interest paid on the Bonds, and that it will make and take, or require to be made and taken, such acts and filings as may from time to time, be required under the Code to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds, including maintaining continuous compliance with the requirements of Section 142 of the Code.

(j) If the Borrower becomes aware of any situation, event or condition which would result in the interest of the Bonds becoming includable in gross income for federal income tax purposes, the Borrower shall promptly give written notice thereof to the Issuer, the Investor Limited Partner and the Trustee.

### **ARTICLE III PLAN OF FINANCING**

#### **Section 3.01 Issuance of Bonds; Application of Proceeds**

To provide funds to finance the Loan for purposes of assisting the Borrower in paying costs of the Project, the Issuer shall simultaneously with the execution and delivery hereof proceed with the issuance and delivery of the Bonds upon receipt by the Trustee of the items listed in Section 2.13 of the Indenture. The Issuer agrees to deposit the proceeds of sale of the Bonds in accordance with the Indenture.

The Bonds will be issued pursuant to the Indenture in the aggregate principal amount, will bear interest, will mature and will be subject to redemption, mandatory tender and remarketing as set forth therein. The Borrower hereby approves the terms and conditions of the Indenture and the Bonds, and the terms and conditions under which the Bonds will be issued, sold and delivered and will comply with those provisions of the Indenture that contemplate action by the Borrower, all as if the Borrower were a party to the Indenture.

Pending disbursement pursuant to Section 3.06 hereof, the proceeds of the Bonds deposited in the Project Fund, together with any investment earnings thereon, shall constitute a part of the Revenues assigned by the Issuer to the Trustee as security for the payment of Bond Service Charges as provided in the Indenture.

**Section 3.02 The Loan.** The Issuer agrees, upon the terms and conditions herein, to make the Loan to the Borrower with the proceeds received by the Issuer from the sale of the Bonds by causing such proceeds to be deposited with the Trustee for disposition as provided in the Indenture. The obligation of the Issuer to finance the Loan shall be deemed fully discharged

upon the deposit of the proceeds of the Bonds with the Trustee. The Loan shall be evidenced by the Note payable to the Trustee.

**Section 3.03 Reserved**

**Section 3.04 Acquisition and Construction**

The Borrower (a) shall acquire and construct the Project with all reasonable dispatch and in accordance with the Plans and Specifications, (b) shall pay when due all fees, costs and expenses incurred in connection with that acquisition and construction from funds made available therefor in accordance with this Loan Agreement or otherwise, except to the extent being contested in good faith, and (c) shall ask for, demand, sue for, levy, recover and receive all those sums of money, debts and other demands whatsoever which may be due, owing and payable under the terms of any contract, order, receipt, writing and instruction in connection with the acquisition and construction of the Project, and shall enforce the provisions of any contract, agreement, obligation, bond or other performance security with respect thereto. It is understood that the Project is that of the Borrower and any contracts made by the Borrower with respect thereto, whether acquisition contracts, construction contracts or otherwise, or any work to be done by the Borrower on the Project are made or done by the Borrower in its own behalf and not as agent or contractor for the Issuer. The Borrower agrees that it will compensate all workers employed in the acquisition and construction of the Project as required by law.

**Section 3.05 Plans and Specifications**

The written Plans and Specifications will be delivered to the Trustee upon request; provided that the Trustee shall have no duty to review such Plans and Specifications. The Borrower may revise the Plans and Specifications from time to time, provided that no revision shall be made which would change the purpose of the Project to other than purposes permitted by the Act and the Land Use Restriction Agreement.

**Section 3.06 Disbursements from the Project Fund**

Subject to the provisions below and so long as no Event of Default hereunder has occurred and is continuing for which the principal amount of the Bonds has been declared to be immediately due and payable pursuant to Section 8.02 hereof and Section 6.03 of the Indenture, and no Determination of Taxability has occurred, disbursements from the Project Fund shall be made only to pay costs of the Project.

Any disbursements from the Project Fund for the payment of costs of the Project shall be made by the Trustee only upon the receipt by the Trustee of: (a) a requisition in the form attached hereto as **Exhibit B**, signed by an Authorized Borrower Representative; and (b) Eligible Funds. The Borrower hereby acknowledges and agrees that it shall submit requisitions to the Trustee no more frequently than once each calendar month. Each such requisition shall be consecutively numbered.

Any money in the Project Fund remaining after the Completion Date and payment, or provision for payment, in full of the costs of the Project, at the written direction of the Authorized Borrower Representative, promptly shall be paid into the Bond Fund for payment of Bond Service Charges or released to the Borrower, provided the Borrower obtains an opinion of Bond Counsel addressed to the Trustee that such deposit or release will not adversely affect the Federal Tax Status of the Bonds.

**Section 3.07 Duties and Obligations of the Borrower**

Borrower accepts the duties and obligations under the Indenture.

**Section 3.08 Borrower Required to Pay Costs in Event Project Fund Insufficient**

If money in the Project Fund is not sufficient to pay all costs of the Project, the Borrower, nonetheless, will complete the Project in accordance with the Plans and Specifications and shall pay all such additional costs of the Project from its own funds and other available funds. The Borrower shall pay all Costs of Issuance of the Bonds in excess of the amounts deposited in the Costs of Issuance Fund. The Borrower shall not be entitled to any reimbursement for any such additional costs of the Project or payment of Costs of Issuance from the Issuer, the Trustee or any Holder; nor shall it be entitled to any abatement, diminution or postponement of any Loan Payments or other amounts to be paid under this Loan Agreement.

**Section 3.09 Completion Date**

The Borrower shall notify the Issuer and the Trustee of the Completion Date by the delivery of a Completion Certificate signed by the Authorized Borrower Representative substantially in the form of **Exhibit C** attached hereto. The Completion Certificate shall be delivered as promptly as practicable after the occurrence of the events and conditions referred to in paragraphs (a) and (b) of the Completion Certificate.

**Section 3.10 Remarketing of Bonds**

The Borrower is hereby granted the right to (a) give written notice of a remarketing of the Bonds in the manner and to the extent set forth in Section 3.07 of the Indenture and (ii) designate, in writing, the length of the Remarketing Period and the related Mandatory Tender Date in the manner and to the extent set forth in Sections 3.05 and 3.07 of the Indenture.

**Section 3.11 Investment of Fund Money**

At the written request of the Authorized Borrower Representative, any money held as part of the Special Funds and the Rebate Fund shall be invested or reinvested by the Trustee in Eligible Investments as provided in the Indenture. The Issuer (to the extent within its control) and the Borrower each hereby covenants that it will restrict that investment and reinvestment and the use of the proceeds of the Bonds, and moneys on deposit in or credited to the Collateral Fund and the Negative Arbitrage Account of the Bond Fund, in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time of delivery of and payment for the Bonds or subsequent intentional acts, so that the Bonds will not constitute arbitrage bonds under Section 148 of the Code. No provision of this Loan Agreement shall be construed to impose upon the Trustee any obligation or responsibility for compliance with arbitrage regulations.

The Borrower shall provide the Issuer with, and the Issuer may base its certifications as authorized by the Tax Compliance Agreement on, a certificate of an Authorized Borrower Representative for inclusion in the transcript of proceedings for the Bonds, setting forth the reasonable expectations of the Borrower on the date of delivery of and payment for the Bonds regarding the amount and use of the proceeds of the Bonds and the facts, estimates and circumstances on which those expectations are based.

**Section 3.12 Rebate Calculations and Payments**

The Borrower shall appoint a Rebate Analyst, the expense of which shall be borne by the Borrower.

The Issuer has covenanted in the Indenture to take any and all actions necessary to assure compliance with Section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Bonds. In furtherance of this covenant, the Borrower, on behalf of the Issuer, hereby covenants (i) within sixty (60) days of the payment in full of the Bonds, to calculate, or cause to be calculated, and provide to the Trustee and the Issuer such calculations in writing, with such written directions as are necessary to fully comply with the arbitrage and rebate requirements set forth in the Indenture and comply fully with Section 148 of the Code, including the timely payment of any Rebatable Arbitrage owed; and (ii) to deposit into the Rebate Fund to pay to the federal government any "Rebatable Arbitrage," to the extent required by Section 148(f) of the Code. The Borrower further agrees to comply with the provisions and requirements of Section 4.09 of the Indenture relating to the obligation to pay to the Trustee, for deposit into the Rebate Fund established under the Indenture, the "Rebatable Arbitrage" as required thereunder and under Section 148 of the Code.

If the amount then on deposit in the Rebate Fund created under the Indenture is less than the Rebatable Arbitrage (taking into account the amount or amounts, if any, previously paid to the United States), the Borrower shall, within 30 days after the date of the aforesaid calculation, deposit or cause to be deposited to the credit of the Rebate Fund an amount sufficient to cause the Rebate Fund to contain an amount equal to the Rebatable Arbitrage. The obligation of the Borrower to make or cause to be made such payments shall remain in effect and be binding upon the Borrower, notwithstanding the release and discharge of the Indenture or the termination of this Loan Agreement, for so long as may be required to maintain the Federal Tax Status of the Bonds in accordance with applicable law. The Borrower shall obtain such records of the computations made pursuant to this Section as are required under Section 148(f) of the Code and shall retain such records for at least six (6) years after the maturity or retirement of the Bonds.

The Borrower further covenants that, during the term of the Bonds, in the event the Borrower sells or otherwise disposes of the Project, it will require that the transferee execute a covenant similar to that in this Section in the sale or other documents concerning the disposition and will require such transferee to include such a covenant in future transfer documents. The special covenants of the Borrower in this Section shall survive the defeasance or payment in full of the Bonds and the termination of this Loan Agreement and the Indenture, notwithstanding any other provision of this Loan Agreement, until the requirement for payment of any Rebatable Arbitrage has been fully satisfied.

The obligations of the Borrower under this Section shall survive the termination of this Loan Agreement and the Indenture and the payment and performance of all of the other obligations of the Borrower hereunder and under the other Borrower Documents for so long as may be required to maintain the Federal Tax Status of the Bonds in accordance with applicable law, or until the Borrower has transferred the Project to an unrelated entity with the prior written consent of the Issuer, which transferee assumes the obligations of the Borrower pursuant to this Section.

**ARTICLE IV**  
**LOAN PAYMENTS; ELIGIBLE FUNDS AND ADDITIONAL PAYMENTS**

**Section 4.01 Loan Repayment; Delivery of Note.** In consideration of and in repayment of the Loan, the Borrower shall deliver or cause to be delivered to the Trustee on or before each Bond Payment Date, a Loan Payment in an amount equal to the amount necessary to pay Bond Service Charges due on such Bond Payment Date. All such Loan Payments shall be paid to the Trustee in accordance with the terms of the Note for the account of the Issuer and shall be held and disbursed in accordance with the provisions of the Indenture and this Loan Agreement.

The Borrower shall be entitled to a credit against the Loan Payments required to be made with respect to the Bonds on any date equal to the available money in the Bond Fund or money transferred thereto from the Collateral Fund or the Project Fund for the payment of Bond Service Charges on that date.

To secure the Borrower's performance of its obligations under this Loan Agreement, the Borrower shall execute and deliver, concurrently with the issuance and delivery of the Bonds, the Note and the Land Use Restriction Agreement.

The Note shall secure equally and ratably all Outstanding Bonds, except that, so long as no Event of Default has occurred and is continuing hereunder, payments by the Borrower on the Note shall be used by the Bond Trustee to make a like payment of Bond Service Charges and shall constitute Loan Payments.

Upon payment in full, in accordance with the Indenture, of the Bond Service Charges on any or all Bonds, whether at maturity or otherwise, or upon provision for the payment thereof having been made in accordance with the provisions of the Indenture, (a) the Note shall be deemed fully paid, the obligations of the Borrower thereunder shall be terminated, and the Note shall be surrendered by the Trustee to the Borrower, and shall be canceled by the Borrower, or (b) an appropriate notation shall be endorsed thereon evidencing the date and amount of the principal payment (or prepayment) equal to the Bonds so paid, or with respect to which provision for payment has been made, and that Note shall be surrendered by the Trustee to the Borrower for cancellation if all Bonds shall have been paid (or provision made therefor) and canceled as aforesaid. Unless the Borrower is entitled to a credit under express terms of this Loan Agreement or the Note, all payments on the Note shall be in the full amount required thereunder.

**Section 4.02 Eligible Funds**

In consideration of and as a condition to the disbursement of Bond proceeds in the Project Fund to pay Project Costs, and to secure the Borrower's obligation to make Loan Payments, the Borrower shall provide written direction to a provider of Eligible Funds to deliver or cause to be delivered to the Trustee the Eligible Funds, or shall otherwise cause to be delivered to the Trustee, Eligible Funds from any other source, equal to the amount of the proposed disbursement. The Trustee shall not deposit such funds into the Collateral Fund unless it is prepared to disburse, on the same business day if such Eligible Funds are received prior to 10 AM, and otherwise within one Business Day, an equal amount of funds from the Project Fund. All such Eligible Funds shall be paid to the Trustee for the account of the Issuer and shall be held in the Collateral Fund and disbursed in accordance with the provisions of the Indenture. [ Upon deposit of such Eligible Funds into the Collateral Fund, the Trustee shall be unconditionally and irrevocably obligated to disburse an equal amount from the Project Fund to the party depositing the related Eligible Funds.

As provided in the Indenture, these amounts will be advanced by such party to the Borrower for the purpose of financing either costs of the Project or Bond Service Charges.

The Borrower hereby covenants and agrees to repay the Loan on or before any date that any payment of interest or principal is required to be made in respect of the Bonds pursuant to the Indenture, until the principal of and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Indenture, in cash or cash equivalents, a sum which, together with any other moneys available for such payment in any account of the Bond Fund, will enable the Trustee to pay the amount payable on such date as principal of (whether at maturity or acceleration or otherwise) and interest on the Bonds as provided in the Indenture. Payments by the Trustee of principal and interest on the Bonds from amounts in the Bond Fund and funds deposited in the Collateral Fund under the Indenture shall be credited against the Borrower's obligation to pay principal and interest on the Loan.

The Borrower shall make or cause to be made all Loan Payments directly to the Trustee at its Designated Office. The Borrower shall direct the Lender to deposit Eligible Funds directly to the Trustee at its Designated Office. Additional Payments shall be made by the Borrower directly to the person or entity to whom or to which they are due.

It is understood and agreed that all payments of principal and interest payable by the Borrower under this Section 4.02 are assigned by the Issuer to the Trustee for the benefit of the Holders of the Bonds (excluding amounts on deposit in the Rebate Fund). The Borrower consents to such assignment.

In the event the Borrower should fail to make any of the payments required in this Section 4.02, the item or installment so in default shall continue as an obligation of the Borrower until the amount in default shall have been fully paid, and the Borrower agrees to pay the same with interest thereon, to the extent permitted by law, from the date when such payment was due, at the rate of interest borne by the Bonds.

#### **Section 4.03 Special Funds**

The Borrower and the Issuer each acknowledge that neither the Borrower nor the Issuer has any interest in the Bond Fund or the Collateral Fund and any money deposited therein shall be in the custody of and held by the Trustee in trust for the benefit of the Holders.

#### **Section 4.04 Additional Payments**

The Borrower shall pay as Additional Payments hereunder the following:

(a) Whether out of the proceeds of the Mortgage Loan or other funds, all Costs of Issuance of the Bonds, and all expenses incurred in closing the Mortgage Loan.

(b) All Extension Payments and other sums required under Section 3.07 of the Indenture in order to revise or extend the Mandatory Tender Date or remarket the Bonds, and the Borrower further agrees to execute any and all certificates required by the Issuer, the Trustee or the Remarketing Agent in order to effectuate such revision, extension or remarketing.

(c) To the Trustee, (i) the Ordinary Trustee Fees and Expenses to the extent that the funds available in the Expense Fund under the Indenture for the payment thereof are not sufficient and available therefor and (ii) the extraordinary Trustee fees and expenses.

(d) To the Issuer (i) the Ordinary Issuer Fees to the extent that the funds available under the Indenture for the payment thereof are not sufficient and available therefor and (ii) the Extraordinary Issuer's Fees and Expenses.

(e) All costs of printing any replacement Bonds required to be issued under the Indenture to the extent such costs are not paid by the Holders.

(f) To the extent not paid by the Trustee from the Expense Fund, all of the fees and expenses of the Rebate Analyst (including, but not limited to, the Rebate Analyst Fee) and any other necessary consultant employed by the Borrower, the Trustee or the Issuer in connection with any of the requirements imposed by Section 4.09 of the Indenture and the Tax Compliance Agreement to the extent funds available under the Indenture are not sufficient and applied therefor. The Borrower shall provide or cause to be provided all information and money (including money necessary to make deposits to the Rebate Fund required by the Indenture and the Tax Compliance Agreement and the fees and expenses of the Rebate Analyst to the extent available money in the Bond Fund under the Indenture are inadequate to pay such amounts) to the Trustee and the Rebate Analyst to enable the Trustee and the Rebate Analyst to comply with the Indenture and the Tax Compliance Agreement.

(g) To the Dissemination Agent, the Dissemination Agent Fee, to the extent funds available in the Expense Fund under the Indenture are not sufficient and applied therefor, as well as any other costs and expenses in order to provide for compliance with the terms of the Continuing Disclosure Agreement.

(h) To the Remarketing Agent, the Remarketing Agent Fee and any Remarketing Expenses.

In the event the Borrower is in default under any provision of any of the Borrower Documents and such default is not cured after expiration of all applicable notice and cure provisions, the Borrower shall be liable to, and upon demand shall pay to, the Issuer and the Trustee all reasonable fees and disbursements of such persons and their agents (including reasonable attorneys' fees and expenses) which are reasonably connected therewith or incidental thereto except to the extent such fees and disbursements are paid from money available therefor under the Indenture.

To provide for certain of the anticipated Additional Payments, the Borrower agrees to cause to be deposited a portion of the Initial Borrower Deposit into the Expense Fund and the Costs of Issuance Fund as required under the Indenture, and authorizes the Trustee to pay, from money on deposit in the Costs of Issuance Fund and the Expense Fund, the amounts provided to be paid from the Costs of Issuance Fund or the Expense Fund in accordance with Sections 4.05 and 4.08, respectively, of the Indenture. All such amounts shall be paid directly to the parties entitled thereto for their own account as and when such amounts become due and payable.

Upon the payment, prepayment, or incurrence of any such cost, expense, or liability described in this Section by any such party, the Additional Payments in respect thereof shall be payable upon written demand to the Borrower, which demand shall be accompanied by invoices or other appropriate documentation concerning the nature, amount and incurrence of such cost, expense or liability. If the Additional Payments payable under this Section are not paid upon such demand, such Additional Payments shall bear interest from the date of such payment or the incurrence thereof at the Interest Rate for Advances until the amount due shall have been fully paid.

Except as otherwise provided herein, the obligations of the Borrower under this Section shall survive the termination of this Loan Agreement and the Indenture and the payment and performance of all of the other obligations of the Borrower hereunder and under the other Borrower Documents, unless and until the Borrower has transferred the Project to an unaffiliated entity with the prior written consent of the Issuer, which transferee assumes the obligations of the Borrower pursuant to this Section.

**Section 4.05 Obligations of the Borrower Unconditional.** The obligations of the Borrower to make the payments required under this Loan Agreement, and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional, irrespective of any defense or any right of notice, setoff, recoupment or counterclaim it might otherwise have against the Issuer, the Trustee or any other person. Subject to termination as provided herein, the Borrower (a) will not suspend or discontinue, or permit the suspension or discontinuance of, any payments provided for under this Loan Agreement, (b) will perform and observe all of its other agreements contained in this Loan Agreement and (c) will not terminate this Loan Agreement for any cause including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Project, commercial frustration of purpose, or change in the tax or other laws or administrative rulings of or administrative actions by the United States of America or the State or any political subdivision of either, any failure of the Issuer to perform and observe any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with this Loan Agreement, whether express or implied, or any failure of the Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Indenture, whether express or implied.

**Section 4.06 Limited Obligation of Issuer.** The obligations of the Issuer under this Loan Agreement are special, limited obligations of the Issuer, payable solely out of the Revenues. The obligations of the Issuer hereunder shall not be deemed to constitute an indebtedness or an obligation of the Issuer, the State of Illinois or any political subdivision thereof within the meaning of any constitutional limitation or statutory provision, or a charge against the credit or general taxing powers, if any, of any of them.

**Section 4.07 Assignment of Issuer's Rights.** As security for the payment of the Bonds, the Issuer will, pursuant to the Indenture and the Assignment, assign and pledge to the Trustee all of the Issuer's right, title and interest in and to this Loan Agreement and the Promissory Note, except that it will retain the Issuer Reserved Rights, but such retention by the Issuer will not limit in any way the exercise by the Trustee of its rights hereunder, under the Assignment or under the Indenture, the Promissory Note and the Bonds. Notwithstanding anything herein to the contrary, the Issuer hereby directs the Borrower to make all payments under this Loan Agreement (except with respect to the Issuer Reserved Rights) and the Promissory Note directly to the Trustee. The Borrower hereby acknowledges and consents to such pledge and assignment, and agrees to make payments directly to the Trustee (except with respect to the Issuer Reserved Rights), without defense or set-off, recoupment or counterclaim by reason of any dispute between the Borrower on the one hand, and the Trustee or the Issuer on the other hand, or otherwise. After any such assignment and pledge referenced in this Loan Agreement, the Indenture, the Bonds or the Promissory Note, all rights, interest and benefits accruing to the Issuer under this Loan Agreement or the Promissory Note, except for the Issuer Reserved Rights, shall be assigned to and become the rights and benefits of the Trustee. Any obligations of the Issuer as provided in the Indenture, this Loan Agreement, the Bonds or the Promissory Note shall remain the obligations of the Issuer to the extent provided herein and therein after such assignment. The Issuer agrees that the Trustee, in its name or in the name of the Issuer, may enforce all rights of

the Issuer (other than the Issuer Reserved Rights) and all obligations of the Borrower under and pursuant to the assigned documents as aforesaid, and the Issuer will not enforce such rights and obligations itself except at the written direction of the Trustee, in each case whether or not there has been a Default hereunder.

The Trustee will have all rights and remedies herein accorded to the Issuer (except for Issuer Reserved Rights).

## **ARTICLE V SPECIAL COVENANTS**

**Section 5.01 Access to the Project.** The Borrower agrees that the Issuer, the Trustee and their duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right to inspect the Project and the acquisition, rehabilitation and equipping thereof at all reasonable times. The Borrower acknowledges that the Issuer shall monitor the acquisition, rehabilitation and equipping of the Project. The Issuer, the Trustee and their duly authorized agents shall also be permitted, at all reasonable times, to examine the books, accounts, contracts, documents, and other papers of the Borrower with respect to the Project which shall all be maintained by the Borrower in reasonable condition and for audit.

**Section 5.02 Further Assurances and Corrective Instruments.** The Issuer and the Borrower agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Loan Agreement.

**Section 5.03 Issuer and Borrower Representatives.** Whenever under the provisions of this Loan Agreement the approval of the Issuer or the Borrower is required or the Issuer or the Borrower is required to take some action at the request of the other, such approval or such request shall be given in writing both for the Issuer by an Authorized Issuer Representative and for the Borrower by an Authorized Borrower Representative. The Trustee shall be authorized to act on any such approval or request pursuant to the Indenture.

**Section 5.04 Financing Statements.** The Borrower shall, or shall cause to be executed and filed any and all financing statements, or any amendments thereof or continuation statements thereto, to perfect the security interests granted in the Indenture, in the manner prescribed in the Indenture. The Borrower shall pay all costs of filing such instruments and any fees and expenses (including reasonable attorney's fees) associated therewith.

**Section 5.05 Insurance.** The Borrower shall obtain and keep in force such insurance coverage as may be required by the Issuer in its reasonable discretion from time to time. All insurance policies and renewals thereof relating to the Project shall be in a form acceptable to the Issuer in its reasonable discretion and shall designate the Issuer and the Trustee as additional insured for liability insurance on the Project. The Issuer shall be furnished with full copies of all policies within fifteen (15) calendar days of receipt thereof and shall have the right to receive duplicate copies of policies and renewals, and the Borrower shall promptly furnish the Issuer with copies of all renewal notices and all receipts for paid premiums within fifteen (15) calendar days of receipt thereof. The Borrower shall notify the Issuer at least 30 calendar days in advance of an endorsement or of any change in the terms of coverage adverse to the Issuer. In the event of loss, the Borrower shall give prompt notice to the insurance carrier and the Issuer.

With respect to any casualty insurance, it shall (a) be in an amount equal to the greater of the actual cash value or the replacement cost of the insurable then existing improvements and equipment in the Project and (b) be provided by an insurance company with a claims paying ability rating of not less than "B+V" by A.M. Best.

**Section 5.06 Restriction on Plans and Specifications.** The Borrower will not cause, permit or suffer to exist, any material deviations from the Plans and Specifications and will not approve or consent to any construction change directive which results in a material deviation from the Plans and Specifications without the prior approval of the Issuer, which approval shall not be unreasonably withheld, conditioned or delayed.

**Section 5.07 Requisitions**

(a) At such time as the Borrower shall desire to obtain an advance from the Project Fund, the Borrower shall complete, execute and deliver to the Trustee a Requisition. Each Requisition shall be signed on behalf of the Borrower, shall be in the form set forth on Exhibit B to this Loan Agreement, and shall state with respect to each disbursement to be made: (i) the number of the Requisition, (ii) the amount to be disbursed and the sources of such disbursement, (iii) that each obligation described therein is a Project Cost, has been properly incurred and has not been the basis for any previous disbursement and (iv) that the expenditure of such disbursement when added to all previous disbursements will result in not less than 95% of all disbursements from proceeds of the Bonds having been used to pay or reimburse the Borrower for Qualified Project Costs. The Borrower shall submit the Requisition to the Trustee for payment. Approved Requisitions may be submitted to the Trustee by Electronic Means and shall not include accompanying supporting materials. In making such payment, the Trustee may rely upon such requisitions and shall not be required to make any investigation in connection therewith.

(b) The amounts deposited into the Project Fund may be disbursed by the Trustee only in accordance with Section 4.04 of the Indenture, including delivery of a written Requisition of the Borrower satisfying the requirements of this Section 5.07 and Section 5.02 of the Indenture.

**Section 5.08 Borrower Receipt of Insurance or Condemnation Proceeds.** In the event the Borrower receives any proceeds of insurance or any condemnation awards with respect to the Project from a party other than the Trustee, the Borrower shall promptly upon receipt remit all such insurance proceeds or condemnation awards to the Lender to be used in accordance with the Mortgage Loan Documents.

**Section 5.09 Financial Information.** The Borrower agrees that it will have the books and records of the Borrower audited annually by an independent certified public accountant as soon as practicable after the close of each fiscal year of the Borrower, and will furnish within 120 days after the end of each fiscal year to the Issuer and the Trustee a copy of the audit report certified by such certified public accountant and prepared in accordance with generally accepted accounting principles, which report shall include calculations of the availability of funds for distributions and disclose the amount of member distributions for the preceding year. The Borrower and the Issuer acknowledge that the Trustee shall have no obligations under this Section 5.09 other than to receive such statements and, if requested, to furnish such statements to Holders. The Trustee shall not have any obligation to review such statement provided to it, nor shall the Trustee be deemed to have notice of any item contained therein or Event of Default or Default which may be disclosed therein in any manner. The Trustee shall have not duty to request copies of any such statements which are required to be furnished to it hereunder.

**Section 5.10 Environmental Requirements; Indemnity**

(a) As between the Issuer and the Borrower, the Issuer and the Borrower agree and understand that the terms and provisions of an environmental indemnification agreement between the parties, if any, shall govern all indemnifications from the Borrower to the Issuer with respect to environmental matters affecting the Project. The terms and provisions of such environmental indemnification agreement are incorporated herein by this reference, mutatis mutandis, as if fully set forth herein with respect to such relationship. As such, the balance of the provisions of this Section govern only the relationship between the Borrower and the Issuer with respect to indemnifications from the Borrower to the Issuer with regard to environmental matters affecting the Project.

(b) For purposes of this Section 5.10, the term "Hazardous Substance" means and includes any substance, material or waste, including asbestos, petroleum and petroleum products (including crude oil), that is or becomes designated, classified or regulated as "toxic," "hazardous" or a "pollutant," or that is or becomes similarly designated, classified or regulated, under any applicable federal, state or local law, regulation or ordinance, but does not include any such substance that is a customary and ordinary household, cleaning or office product used on the Premises (as defined below) by Borrower or any tenant or agent of Borrower, or customary construction materials used during the course of rehabilitation of the Project by the Borrower and its general contractor, provided such use is in accordance with applicable hazardous materials laws.

(c) Before signing this Loan Agreement, the Borrower researched and inquired into the previous uses and owners of the premises on which the Project is located (the "**Premises**") and obtained a Phase I environmental site assessment a Phase II site assessment and other reports with respect to the environmental conditions of the Premises, copies of which have been delivered to the Issuer. Based on that due diligence, the Borrower represents and warrants to the Issuer that, except as the Borrower has disclosed to the Issuer in writing and as described in the Phase I environmental site assessment and Phase II site assessment, to the best of the Borrower's knowledge, (i) no Hazardous Substance has been disposed of, or released to or from, or otherwise now exists in, on, under or around, the Premises, and (ii) no aboveground or underground storage tanks are now or have ever been located on or under the Premises.

(d) The Borrower has complied, and will comply and cause all tenants and any other persons who may come upon the Premises to comply in all material respects with all federal, state and local laws, regulations and ordinances governing or applicable to Hazardous Substances, including those requiring disclosures to prospective and actual buyers or tenants of all or any portion of the Premises. The Borrower will not install or allow to be installed any aboveground or underground storage tanks on the Premises. The Borrower must comply with the recommendations of any qualified environmental engineer or other expert engaged by the Borrower with respect to the Premises. The Borrower must promptly notify the Issuer in writing (1) if it knows, suspects or believes there may be any Hazardous Substance in or around any part of the Premises, any improvements constructed on the Premises, or the soil, groundwater or soil vapor on or under the Premises, or that the Borrower or the Premises may be subject to any threatened or pending investigation by any governmental agency under any law, regulation or ordinance pertaining to any Hazardous Substance, and (ii) of any claim made or threatened by any person, other than a governmental agency, against the Borrower arising out of or resulting from any Hazardous Substance being present or released in, on or around any part of the Premises, any Improvements constructed on the Premises or the soil, groundwater or soil vapor

on or under the Premises (any of the matters described in clauses (i) and (ii) above a "Hazardous Substances Claim").

(e) The Issuer, the Trustee and their respective officers, employees, directors, agents, assignees, and any purchasers of the Premises at any foreclosure sale (each individually, an "Indemnified Party," and all collectively, the "Indemnified Parties"), have the right at any reasonable time and upon notice to the Borrower to enter and visit the Premises for the purposes of observing the Premises, taking and removing soil or groundwater samples and conducting tests on any part of the Premises. The Indemnified Parties have no duty, however, to visit or observe the Premises or to conduct tests, and no site visit, observation or testing by any Indemnified Party imposes any liability on any Indemnified Party. In no event will any site visit, observation or testing by any Indemnified Party be a representation that Hazardous Substances are or are not present in, on or under the Premises, or that there has been or will be compliance with any law, regulation or ordinance pertaining to Hazardous Substances or any other applicable governmental law. Neither the Borrower nor any other party is entitled to rely on any site visit, observation or testing by any Indemnified Party. The Borrower waives to the fullest extent permitted by law any such duty of care on the part of the Indemnified Parties or any other party to protect the Borrower or inform the Borrower or any other party of any Hazardous Substances or any other adverse condition affecting the Premises. Any Indemnified Party will give the Borrower reasonable notice before entering the Premises. The Indemnified Party will make reasonable efforts to avoid interfering with the Borrower's and its tenants' use of the Premises in exercising any rights provided in this Section. The Borrower must pay all costs and expenses incurred by an Indemnified Party in connection with any inspection or testing conducted in accordance with this subsection. The results of all investigations conducted and/or reports prepared by or for any Indemnified Party must at all times remain the property of the Indemnified Party, and under no circumstances will any Indemnified Party have any obligation whatsoever to disclose or otherwise make available to the Borrower or any other party the results or any other information obtained by any of them in connection with the investigations and reports. Notwithstanding the foregoing, the Indemnified Parties hereby reserve the right, and the Borrower hereby expressly authorizes any Indemnified Party, to make available to any party (including any governmental agency or authority and any prospective bidder at any foreclosure sale of the Premises) any and all reports, whether prepared by any Indemnified Party or prepared by the Borrower and provided to any Indemnified Party (collectively, "Environmental Reports") that any Indemnified Party may have with respect to the Premises. The Borrower consents to the Indemnified Parties' notifying any party (either as part of a notice of sale or otherwise) of the availability of any or all of the Environmental Reports and the information contained therein. The Borrower acknowledges that the Indemnified Parties cannot control or otherwise assure the truthfulness or accuracy of the Environmental Reports and that the release of the Environmental Reports, or any information contained therein, to prospective bidders at any foreclosure sale of the Premises may have a material and adverse effect upon the amount that a party may bid at such sale. The Borrower agrees that the Indemnified Parties have no liability whatsoever as a result of delivering any or all of the Environmental Reports or any information contained therein to any third party, and the Borrower hereby releases and forever discharges the Indemnified Parties from any and all claims, damages, or causes of action, arising out of, connected with or incidental to the Environmental Reports or the delivery thereof, unless resulting from the gross negligence or willful misconduct of the Indemnified Parties

(f) The Borrower must promptly undertake any and all remedial work ("**Remedial Work**") in response to Hazardous Substances Claims to the extent required by governmental agency or agencies involved or as recommended by prudent business practices, if such standard requires a higher degree of remediation, and in all events to minimize any

impairment to the Issuer's security under the Borrower Documents. All Remedial Work must be conducted (i) in a diligent and timely fashion by licensed contractors acting under the supervision of a consulting environmental engineer, (ii) pursuant to a detailed written plan for the Remedial Work approved by all applicable public or private agencies or persons with a legal or contractual right to such approval, (iii) with insurance coverage pertaining to liabilities arising out of the Remedial Work as is then customarily maintained with respect to such activities, and (iv) only following receipt of any required permits, licenses or approvals. The selection of the Remedial Work contractors and consulting environmental engineer, the contracts entered into with such parties, any disclosures to or agreements with any public or private agencies or parties relating to Remedial Work and the written plan for the Remedial Work (and any changes thereto) at the Issuer's option, is subject to the Issuer's prior written approval, which may not be unreasonably withheld, conditioned or delayed.

(g) The obligations and rights of the parties under this Section 5.10 continue in full force and effect until the first to occur of full, final and indefeasible repayment of the Liabilities or the transfer of title to all or any part of the Premises at a foreclosure sale or by deed in lieu of such foreclosure (any such foregoing transfer being referred to as a "Foreclosure Transfer"). The parties' obligations and rights under this Section 5.10 continue in full force and effect after the full and final payment of the Liabilities or a Foreclosure Transfer, as the case may be, but (i) in the case of a full and final payment of the Liabilities, the Borrower's obligations under this Section 5.10 are thereafter limited to the indemnification obligations of subsections (i) and (j) below as to Indemnified Costs (as defined below) arising out of or as a result of events prior to the full and final payment of the Liabilities, and (ii) in the case of a Foreclosure Transfer, the obligations do not include the obligation to reimburse any Indemnified Party for diminution in value of the Premises resulting from the presence of Hazardous Substances on the Premises before the date of the Foreclosure Transfer if, and to the extent that, the Indemnified Party recovers on a deficiency judgment including compensation for such diminution in value; provided, however, that nothing in this sentence impairs or limits an Indemnified Party's right to obtain a judgment in accordance with applicable law for any deficiency in recovery of all obligations, subject to the provisions of Section 9.03 hereof. As used in this Section 5.10, the term "Indemnified Costs" means all actual or threatened liabilities, claims, actions, causes of action, judgments, orders, damages (including foreseeable and unforeseeable consequential damages), costs, expenses, fines, penalties and losses incurred in connection with Hazardous Substances on the Property (including sums paid in settlement of claims and all consultant, expert and reasonable legal fees and expenses of the Issuer's counsel), including those incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work (whether of the Premises or any other property), or any resulting damages, harm or injuries to the person or property of any third parties or to any natural resources.

(h) Except for those arising from the gross negligence or willful misconduct of the Indemnified Parties, the Borrower shall indemnify, defend and hold the Indemnified Parties harmless for, from and against any and all Indemnified Costs directly or indirectly arising out of or resulting from any Hazardous Substance being present or released in, on or around any part of the Premises, or in the soil, groundwater or soil vapor on or under the Premises, including: (i) any claim for such Indemnified Costs asserted against any Indemnified Party by any federal, state or local governmental agency, including the United States Environmental Protection Agency and the Illinois Environmental Protection Agency, and including any claim that any Indemnified Party is liable for any such Indemnified Costs as an "owner" or "operator" of the Premises under any law relating to Hazardous Substances; (ii) any claim for such Indemnified Costs asserted against any Indemnified Party by any person other than a governmental agency, including (1) any person who may purchase or lease all or any portion of the Premises from the Borrower, from any

Indemnified Party or from any other purchaser or lessee, (2) any person who may at any time have any interest in all or any portion of the Premises, (3) any person who may at any time be responsible for any clean-up costs or other Indemnified Costs relating to the Premises, and (4) any person claiming to have been injured in any way as a result of exposure to any Hazardous Substance; (iii) any Indemnified Costs incurred by any Indemnified Party in the exercise by the Indemnified Party of its rights and remedies under this Section 5.10; and (iv) any Indemnified Costs incurred by any Indemnified Party as a result of currently existing conditions in, on or around the Premises, whether known or unknown by the Borrower or the Indemnified Parties at the time this Loan Agreement is executed, or attributable to the acts or omissions of the Borrower, any of the Borrower's tenants, or any other person in, on or around the Premises with the consent or under the direction of the Borrower.

(i) Upon demand by any Indemnified Party, the Borrower must defend any investigation, action or proceeding involving any Indemnified Costs that is brought or commenced against any Indemnified Party, whether alone or together with the Borrower or any other person, all at the Borrower's own cost and by counsel reasonably approved by the Indemnified Party. In the alternative, any Indemnified Party may elect to conduct its own defense at the Borrower's expense.

(j) In addition to any other rights or remedies the Issuer may have under this Loan Agreement, at law or in equity, upon the occurrence of an Event of Default under this Loan Agreement not cured within the applicable cure period, the Issuer may do or cause to be done whatever is necessary to cause the Premises to comply with any and all laws, regulations and ordinances governing or applicable to Hazardous Substances, and any other applicable law, rule, regulation, order or agreement, and the cost thereof will become immediately due and payable upon demand by the Issuer, and if not paid when due will accrue interest at the default rate set forth in the Bonds, until paid. The Borrower hereby acknowledges and agrees that any amounts realized by the Issuer by reason of the following may be applied to pay the Liabilities prior to being applied to pay the Borrower's obligations to reimburse the Issuer for costs and expenses, including those incurred by the Issuer in enforcing its rights and remedies under the provisions of this Section 5.10: (i) any payments made pursuant to the Bonds or any of the Borrower Documents (other than payments made to the Issuer for reimbursement of costs and expenses or for enforcement of its rights and remedies, under the provisions of this Section 5.10); (ii) any foreclosure of documents evidencing or securing the Liabilities (including any amounts realized by reason of any credit bid in connection with any such foreclosure); (iii) any conveyance in lieu of foreclosure; (iv) any other realization upon any security for the Liabilities; (v) any recoveries against the Borrower personally (except for recoveries against the Borrower for reimbursement of costs and expenses or enforcement of the Issuer's rights and remedies under this Section 5.10); and (vi) any recoveries against any person or entity other than the Borrower (including any guarantor) to the maximum extent permitted by applicable law.

## ARTICLE VI RESTRICTION ON TRANSFER

### **Section 6.01 Borrower to Maintain its Existence; Sale of Project.**

(a) The Borrower shall maintain its existence, not dissolve or sell, transfer or otherwise dispose of all or substantially all of its assets and not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it; provided, that it may do so if the surviving, resulting or transferee entity assumes in writing all of the obligations of the Borrower under the Borrower Documents. The Borrower shall not permit one

or more other entities to consolidate with or merge into it, or take any action or allow any action to be taken to terminate the existence of the Borrower except as provided herein.

(b) No sale, assignment or transfer of the Project shall be made unless (a) the Issuer consents to such assignment or transfer, (b) the transferee or assignee, as the case may be, assumes all the duties of the Borrower under the Borrower Documents, provided that such assumption may contain an exculpation of the assignee from personal liability with respect to any obligation hereunder arising prior to such sale, assignment or transfer, and (c) no Event of Default as certified in writing to the Trustee by the Borrower shall have occurred and be continuing under the Indenture or this Loan Agreement. The Trustee shall consent to any such assignment or transfer if (i) the Borrower provides a written certification to the Trustee that the aforesaid conditions have been satisfied, (ii) the Trustee receives an Opinion of Bond Counsel addressed to the Trustee to the effect that such transfer or assignment would not adversely affect the Federal Tax Status of the Bonds, and (iii) the Trustee receives written confirmation from the Rating Agency that such transfer or assignment will not result in a withdrawal or reduction in any rating on the Outstanding Bonds by the Rating Agency (if the Bonds are then rated by the Rating Agency). Upon the assumption of the duties of the Borrower by a purchaser, assignee or transferee as provided herein, the outgoing Borrower shall be released from all executory obligations so assumed; provided, however, the Borrower shall not be released from its obligation (x) to pay or reimburse the fees and expenses of the Issuer and the Trustee incurred prior to such sale, assignment or transfer and (y) to indemnify the Trustee and the Issuer with respect to any obligation, event or action incurred or arising prior to such sale, assignment or transfer. Nothing contained in this Section shall be construed to supersede any provisions regarding assignment and transfer of the Project contained in the Mortgage Loan Documents.

(c) Notwithstanding anything to the contrary contained herein or in any other Borrower Document, , the following shall be permitted and shall not require the prior written approval of the Issuer or the Trustee: (a) the transfer by the Investor Limited Partner of its respective interests in the Borrower in accordance with the terms of the Borrower's Organizational Documents, (b) the removal of the General Partner of the Borrower in accordance with the Organizational Documents or Construction Loan Documents, as applicable, and the replacement thereof with an affiliate of the Investor Limited Partner or Construction Lender, (c) the transfer of ownership interests in the Investor Limited Partner, (d) upon the expiration of the tax credit compliance period, the transfer of the interests of the Investor Limited Partner in the Borrower to the Borrower's General Partner or any of its respective affiliates or assigns, and (e) any amendment to the Organizational Documents or Construction Loan Documents, as applicable, to memorialize the transfers or removal described above. The parties agree that this section shall control to the extent of any conflict in any Borrower Documents. In the event the Borrower intends to sell, lease (except to the tenants who will occupy units in the Project), sublease or otherwise materially encumber the whole of or any part of the Project or sell, assign or otherwise, except as otherwise provided herein, transfer any interest in the Borrower (a "transfer"), it shall (i) apply to the Issuer for consent to transfer, and (ii) comply with the provisions of the Land Use Restriction Agreement restricting any such transfer.

## **ARTICLE VII INDEMNIFICATION**

### **Section 7.01 Indemnification of Issuer and Trustee**

(a) Except as otherwise provided below and subject to Sections 8.07 and 9.04 hereof, the Issuer and the Trustee, and each of their officers, agents, independent contractors,

employees, successors and assigns, and, in the case of the Issuer, its elected and appointed officials, past, present or future (hereinafter the “**Indemnified Persons**”), shall not be liable to the Borrower for any reason. The Borrower shall defend, indemnify and hold the Indemnified Persons harmless from any loss, claim, damage, tax, fine, penalty or expense (including, but not limited to, reasonable counsel fees, costs, expenses and disbursements), or liability (other than with respect to payment of the principal of or interest on the Promissory Note) of any nature due to any and all suits, actions, legal or administrative proceedings, expenses or claims arising or resulting from, or in any way connected with: (i) the financing, installation, operation, use or maintenance of the Project; (ii) any act, failure to act, or misrepresentation by the Borrower or any member of the Borrower, or any Person acting on behalf of, or at the direction of, the Borrower or any member of the Borrower, in connection with the issuance, sale or delivery of the Bonds; (iii) any false or misleading representation made by the Borrower in the Borrower Documents; (iv) the breach by the Borrower of any covenant contained in the Borrower Documents, or the failure of the Borrower to fulfill any such covenant which are not cured within all applicable notice and cure periods; (v) enforcing any obligation or liability of the Borrower under this Loan Agreement, the Promissory Note, or the other Borrower Documents, or any related agreement; (vi) taking any action requested by the Borrower; (vii) taking any action reasonably required by the Borrower Documents; or (viii) taking any action considered necessary by the Issuer or the Trustee, and which is authorized by the Borrower Documents. If any suit, action or proceeding is brought against any Indemnified Person, the interests of the Indemnified Person in that suit, action or proceeding shall be defended by counsel to the Indemnified Person or the Borrower, as the Indemnified Person shall determine. If such defense is by counsel to the Indemnified Person, the Borrower shall indemnify and hold harmless the Indemnified Person for the cost of that defense, including reasonable counsel fees, disbursements, costs and expenses. If the Indemnified Persons affected by such suit determine that the Borrower shall defend the Indemnified Persons, the Borrower shall immediately assume the defense at its own cost. Neither the Indemnified Persons nor the Borrower shall be liable for any settlement of any proceeding made without each of their consent. In no event shall the Borrower be liable to an Indemnified Person for the Indemnified Person’s own willful misconduct or gross negligence.

(b) Any provision of this Loan Agreement or any other instrument or document executed and delivered in connection therewith to the contrary notwithstanding, the Issuer retains the right to enforce: (i) any applicable federal or state law or regulation or resolution of the Issuer related to the Project, and (ii) any rights accorded the Issuer by federal or state law or regulation or resolution of the Issuer, and nothing in this Loan Agreement shall be construed as an express or implied waiver thereof.

(c) If the Indemnified Persons are requested by the Borrower to take any action under this Loan Agreement or any other instrument executed in connection herewith for the benefit of the Borrower, they will do so if and only if: (i) the Indemnified Persons are a necessary party to any such action; (ii) the Indemnified Persons have received specific written direction from the Borrower, as required hereunder or under any other instrument executed in connection herewith, as to the action to be taken by the Indemnified Persons; and (iii) a written agreement of indemnification and payment of costs, liabilities and expenses satisfactory to the Indemnified Persons has been executed by the Borrower prior to the taking of any such action by the Indemnified Persons.

(d) The obligations of the Borrower under this Section 7.01 shall survive any assignment or termination of this Loan Agreement and, as to the Trustee, any resignation or removal of the Trustee.

(e) Indemnification of the Issuer by the Borrower with respect to environmental matters shall be governed exclusively by the terms and provisions of any environmental indemnification agreement.

#### **ARTICLE VIII DEFAULTS AND REMEDIES**

**Section 8.01 Defaults Defined.** The following shall be "Defaults" under this Loan Agreement and the term "Default" shall mean, whenever it is used in this Loan Agreement, any one or more of the following events:

(a) The Borrower shall fail to pay any Loan Payment on or prior to the date on which that Loan Payment is due and payable to the extent amounts on deposit in the Bond Fund, including amounts transferred from the Collateral Fund and the Project Fund are insufficient to pay the Bond Service Charges due on the next Bond Payment Date;

(b) The Borrower shall fail to observe and perform any other agreement, term or condition contained in this Agreement and the continuation of such failure for a period of 30 days after written notice thereof shall have been given to the Borrower and Lender by the Issuer or the Trustee, or for such longer period as the Issuer and the Trustee may agree to in writing; provided, that if the failure is other than the payment of money and is of such nature that it can be corrected but not within the applicable period, that failure shall not constitute an Event of Default so long as the Borrower institutes curative action within the applicable period and diligently pursues that action to completion, which must be resolved within 180 days after the aforementioned notice;

(c) The Borrower shall: (i) admit in writing its inability to pay its debts generally as they become due; (ii) have an order for relief entered in any case commenced by or against it under the federal bankruptcy laws, as now or hereafter in effect, which is not dismissed within 90 days; (iii) commence a proceeding under any other federal or state bankruptcy, insolvency, reorganization or similar law, or have such a proceeding commenced against it and either have an order of insolvency or reorganization entered against it or have the proceeding remain undismissed and unstayed for ninety days; (iv) make an assignment for the benefit of creditors; or (v) have a receiver or trustee appointed for it or for the whole or any substantial part of its property which appointment is not vacated within a period of 90 days;

(d) Any representation or warranty made by the Borrower herein or any statement in any report, certificate, financial statement or other instrument furnished in connection with this Loan Agreement or with the purchase of the Bonds shall at any time prove to have been false or misleading in any adverse material respect when made or given;

(e) There shall occur an "Event of Default" as defined in the Indenture; and

(f) There shall occur an "Event of Default" as defined in the Land Use Restriction Agreement by the Borrower under the Land Use Restriction Agreement that is continuing after any applicable notice and cure period.

Notwithstanding the foregoing, if, by reason of Force Majeure, the Borrower is unable to perform or observe any agreement, term or condition hereof which would give rise to an Event of Default under subsection (b) hereof, the Borrower shall not be deemed in default during the continuance of such inability. However, the Borrower shall promptly give written notice to the

Trustee and the Issuer of the existence of an event of Force Majeure and shall use commercially reasonable efforts to remove the effects thereof; provided that the settlement of strikes or other industrial disturbances shall be entirely within its discretion.

Any term of this Loan Agreement, the Indenture or of any related document to the contrary notwithstanding, and notwithstanding an agreement of indemnity, the Trustee shall have no responsibility, obligation or duty to enter upon, or otherwise take possession or control of, the Project or the Premises, or take any other action which could constitute taking possession or control of the Project or the Premises (i) if it will require the approval of a governmental regulator that cannot be obtained, (ii) until the Trustee shall be indemnified to its sole satisfaction and (iii) until the Trustee shall be satisfied, in its sole discretion and determination, that neither it nor the trusts created under the Indenture shall incur, by reason of such action, any personal liability under any federal or State law for hazardous wastes, hazardous materials or other environmental liabilities or any other liability.

The term "**Force Majeure**" shall mean, without limitation, the following:

(i) acts of God; strikes, lockouts or other industrial disturbances; acts of terrorism or of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or any of their departments, agencies, or officials, or any civil or military authority; insurrections; civil disturbances; riots; landslides; earthquakes; fires; hurricanes; tornados; storms; droughts; floods; arrests; restraint of government and people; explosions; breakage, malfunction or accident to facilities, machinery, transmission pipes or canals; partial or entire failure of utilities; shortages of labor, materials, supplies or transportation; or

(ii) any cause, circumstance or event not reasonably within the control of the Borrower. The Borrower agrees, however, to use its best efforts to remedy with all reasonable dispatch the cause or causes preventing the Borrower from carrying out its agreement.

The declaration of an Event of Default under subsection (c) above, and the exercise of remedies upon any such declaration, shall be subject to any applicable limitations of federal bankruptcy law affecting or precluding that declaration or exercise during the pendency of or immediately following any bankruptcy, liquidation or reorganization proceedings.

**Section 8.02 Remedies on Default.** Whenever any Default referred to in Section 8.01 hereof shall have happened and be continuing beyond the expiration of any applicable cure period, the Trustee, or the Issuer (in the event the Trustee does not act), may take one or any combination of the following remedial steps:

(a) If the Trustee has declared the Bonds immediately due and payable pursuant to Section 9.01 of the Indenture, by written notice to the Borrower, declare an amount equal to all amounts then due and payable on the Bonds, whether by acceleration of maturity (as provided in the Indenture) or otherwise, to be immediately due and payable, whereupon the same shall become immediately due and payable; and

(b) Take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Loan Agreement,

the Promissory Note, the Land Use Restriction Agreement or any other Borrower Document in the event of default thereunder.

Notwithstanding the foregoing, neither the Issuer nor the Trustee shall be obligated to take any step which in its opinion will or might cause it to expend time or money or otherwise incur liability unless and until indemnity satisfactory to it has been furnished to the Issuer or the Trustee, as applicable, at no cost or expense to the Issuer or the Trustee. Any amounts collected as Loan Payments or applicable to Loan Payments and any other amounts which would be applicable to payment of Bond Service Charges collected pursuant to action taken under this Section shall be paid into the Bond Fund and applied in accordance with the provisions of the Indenture or, if the Outstanding Bonds have been paid and discharged in accordance with the provisions of the Indenture, shall be paid as provided in Section 4.14 of the Indenture for transfers of remaining amounts in the Bond Fund.

The provisions of this Section are subject to the further limitation that the rescission by the Trustee of its declaration that all of the Bonds are immediately due and payable also shall constitute an annulment of any corresponding declaration made pursuant to paragraph (a) of this Section and a waiver and rescission of the consequences of that declaration and of the Event of Default with respect to which that declaration has been made, provided that no such waiver or rescission shall extend to or affect any subsequent or other default or impair any right consequent thereon.

**Section 8.03 No Remedy Exclusive.** Subject to Section 9.01 of the Indenture, no remedy herein conferred upon or reserved to the Issuer or the Bond Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any Default shall impair any such right or power nor shall it be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer or the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article. Such rights and remedies as are given the Issuer hereunder shall also extend to the Trustee, and the Trustee and the Holders, subject to the provisions of the Indenture, including, but not limited to the Reserved Rights of the Issuer, shall be entitled to the benefit of all covenants and agreements herein contained.

**Section 8.04 Agreement to Pay Attorneys' Fees and Expenses.** In the event the Borrower should Default under any of the provisions of this Loan Agreement or under the Promissory Note and the Issuer and/or Trustee should employ attorneys or incur other expenses for the collection of payments required hereunder or under the Promissory Note, or the enforcement of performance or observance of any obligation or agreement on the part of the Borrower contained herein or in the Promissory Note, the Borrower agrees that it will on demand therefor pay to the Issuer and the Trustee, as the case may be, the reasonable fees and expenses of such attorneys (including, without limitation, those incurred to enforce this provision) and such other expenses so incurred by the Issuer and/or the Trustee. This Section 8.04 will continue in full force and effect notwithstanding the full payment of the obligations under the Loan Agreement or the termination of this Loan Agreement for any reason.

**Section 8.05 No Additional Waiver Implied by One Waiver.** In the event any agreement contained in this Loan Agreement should be breached by either party and thereafter

waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

**Section 8.06 Right to Cure.** Notwithstanding anything to the contrary herein or otherwise in the Borrower Documents, if the Borrower shall, for whatever reason, at any time fail to pay any amount or perform any act which it is obligated to pay or perform under any of the Borrower Documents and, as a result, a default or event of default occurs or may occur thereunder, the Investor Limited Partner, or the Construction Lender, shall have the right to perform such act or pay such amount on behalf of the Borrower and thereby cure or prevent such default or event of default, provided such default or event of default is cured within any applicable cure period or grace period provided to the Borrower herein or otherwise in the Borrower Documents.

**Section 8.07 Default by Issuer; Limited Liability.** Notwithstanding any provision or obligation to the contrary herein set forth, no provision of this Loan Agreement shall be construed so as to give rise to a pecuniary liability of the Issuer or a charge upon the general credit of the Issuer. The liability of the Issuer hereunder shall be limited to its interest in this Loan Agreement, the Promissory Note, and any other Borrower Documents, and the lien of any judgment shall be restricted thereto. In the performance of the agreements of the Issuer herein contained, any obligation it may incur for the payment of money shall not be a debt of the Issuer, and the Issuer shall not be liable on any obligation so incurred. The Issuer does not assume general liability for the repayment of the Bonds or for the costs, fees, penalties, taxes, interest, commissions, charges, insurance or any other payments recited herein, and the Issuer shall be obligated to pay the same only out of Revenues. The Issuer shall not be required to do any act whatsoever, or exercise any diligence whatsoever, to mitigate the damages to the Owner if an Event of Default shall occur hereunder.

## **ARTICLE IX MISCELLANEOUS**

**Section 9.01 Term of Agreement.** This Loan Agreement shall remain in full force and effect from the date hereof until such time as all of the Bonds and all amounts payable hereunder and under the Indenture shall have been fully paid or provision made for such payments, whichever is later, provided, that the provisions of Sections 5.10, 7.01 and Article VIII hereof shall survive termination of this Loan Agreement.

### **Section 9.02 Notices; Publication of Notice**

(a) All notices, advice, certifications or other communications hereunder between the Issuer and the Borrower shall be sufficiently given and shall be deemed given when delivered by hand or overnight courier, or mailed by certified or registered mail, postage prepaid, return receipt requested, or transmitted by electronic means (including, without limitation, facsimile transmission) addressed to the appropriate Notice Address. The Issuer or the Borrower may, by notice given hereunder, designate any further or different addresses to which subsequent notices, advice, certifications or other communications shall be sent. Notices to persons other than the Issuer or the Borrower (such as, for example, notices to owners of Bonds) shall be governed by the other applicable provisions of the Indenture.

(b) Whenever the Issuer or the Borrower is required or permitted to give or publish notice of any event or occurrence under this Loan Agreement, such notice shall be given or published in such manner and by such means as the Issuer or the Borrower, as the case may

be, shall determine to be appropriate. Such publication may be by (but is not limited to) any of the following means: (i) publication in one or more newspapers or trade journals selected by the Issuer or the Borrower, as the case may be; (ii) publication by or through one or more financial information reporting services; (iii) delivery to one or more "nationally recognized municipal securities information repositories" (as such terms is defined in Securities and Exchange Commission Rule 15c2-12) or any successor repository or entity fulfilling a substantially similar or like role; or (iv) by mailing a copy of such notice by first class mail, postage prepaid, to the person entitled to receive the notice at such person's address as shown on the records of the Issuer or the Borrower.

**Section 9.03 Nonrecourse Liability of Borrower.** Except as provided herein, the monetary obligations of the Borrower contained in this Loan Agreement (except for fees, payments and indemnification under Sections 3.12, 4.04, 7.01 and 8.04 hereof) shall be limited obligations payable solely from the income and assets of the Project and neither the Borrower nor any partner, manager, member, director, official or officer of the Borrower shall have any personal liability for the satisfaction of any obligation of the Borrower or claim against the Borrower, arising out of this Loan Agreement. Notwithstanding anything contained in this Loan Agreement to the contrary, neither the Issuer nor the Trustee may assert any claim arising hereunder against the Borrower's interest in the Project, or in the rents or other income of the Project for the payment of any charge or obligation due hereunder.

The limit on the Borrower's 's liability set forth in this Section shall not, however, be construed, and is not intended to in any way, to constitute a release, in whole or in part, of the indebtedness evidenced by this Loan Agreement or a release, in whole or in part, or an impairment of the security interest, or in case of any default or enforcing any other right of the Issuer under this Loan Agreement or to alter, limit or affect the liability of any person or party who may now or hereafter or prior hereto guarantee, or pledge, grant or assign its assets or collateral as security for, the obligations of the Borrower under this Loan Agreement.

The provisions of this Section shall survive the termination of this Loan Agreement

**Section 9.04 No Pecuniary Liability of Issuer.** No agreements or provisions contained in this Loan Agreement or any agreement, covenant or undertaking by the Issuer contained in any document executed by the Issuer in connection with the Project or any property of the Borrower financed, directly or indirectly, out of proceeds of the Bonds or the issuance, sale and delivery of the Bonds will give rise to any pecuniary liability of the Issuer (including tax and rebate liability) or its past, present or future officers, directors, employees, commissioners, agents or members of its governing body and their successors and assigns or constitute a charge against the Issuer's general credit, or obligate the Issuer financially in any way, except with respect to the Trust Estate. No failure of the Issuer to comply with any terms, covenants or agreements in this Loan Agreement or in any document executed by the Issuer in connection with the Bonds will subject the Issuer or its past, present or future officers, directors, employees, commissioners, agents and members of its governing body and their successors and assigns to any pecuniary charge or liability except to the extent that the same can be paid or recovered from the Trust Estate. Without limiting the requirement to perform its duties or exercise its rights and powers under this Loan Agreement upon receipt of appropriate indemnity or payment, none of the provisions of this Loan Agreement or the Indenture will require the Issuer to expend or risk its own funds or otherwise to incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers under this Loan Agreement. Nothing in this Loan Agreement will preclude a proper party in interest from seeking and obtaining, to the extent permitted by law, specific performance against the Issuer for any failure to comply with any term, condition,

covenant or agreement in this Loan Agreement or in the Indenture; provided that no costs, expenses or other monetary relief will be recoverable from the Issuer except as may be payable from the funds available under this Loan Agreement or made available under the Indenture by the Borrower and pledged to the payment of the Bonds.

No covenant, agreement or obligation contained herein or in any other financing instrument executed in connection with the Project or the making of the Loan shall be deemed to be a covenant, agreement or obligation of any past, present or future director, officer, employee, commissioner, or agent of the Issuer in his or her individual capacity so long as he or she does not act in bad faith, and no such director, officer, employee, commissioner or agent of the Issuer in his or her individual capacity shall be subject to any liability under any agreement to which the Issuer is a party or with respect to any other action taken by him or her so long as he or she does not act in bad faith.

**Section 9.05 Binding Effect.** This Loan Agreement shall inure to the benefit of and shall be binding upon the Issuer, the Borrower, the Trustee, the Holders and their respective successors and assigns.

**Section 9.06 Severability.** In the event any provision of this Loan Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 9.07 Amounts Remaining in Funds.** Subject to the provisions of Section 4.07 of the Indenture, any amounts in the Bond Fund remaining unclaimed by the Holders of Bonds for two years after the due date thereof (whether at stated maturity or otherwise), shall be deemed to belong to and shall be paid, at the written request of the Borrower, to the Borrower by the Trustee as overpayment of Loan Payments. With respect to that principal of and interest on the Bonds to be paid from money paid to the Borrower pursuant to the preceding sentence, the Holders of the Bonds entitled to such money shall look solely to the Borrower for the payment of such money. Further, any amounts remaining in the Special Funds after all of the Outstanding Bonds shall be deemed to have been paid and discharged under the provisions of the Indenture and all other amounts required to be paid under this Loan Agreement, the Note and the Indenture have been paid, shall, subject to Section 4.14 of the Indenture and at the written request of the Borrower, be paid to the Borrower to the extent that such money are in excess of the amounts necessary to effect the payment and discharge of the Outstanding Bonds.

**Section 9.08 Amendments, Changes and Modifications.** Subsequent to the issuance of the Bonds and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), and except as otherwise herein expressly provided, this Loan Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the Trustee, in accordance with the provisions of the Indenture.

**Section 9.09 Execution in Counterparts.** This Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 9.10 Applicable Law; Jury Trial.** This Loan Agreement and the Promissory Note, and the rights and obligations of the parties hereunder and thereunder, shall be construed in accordance with, and shall be governed by, the laws of the State of Illinois, without regard to its conflict of laws principles.

**THE BORROWER HEREBY IRREVOCABLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING (I) TO ENFORCE OR DEFEND ANY RIGHTS UNDER OR IN CONNECTION WITH THIS LOAN AGREEMENT OR THE PROMISSORY NOTE, OR ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED, OR WHICH MAY IN THE FUTURE BE DELIVERED; IN CONNECTION HEREWITH OR THEREWITH, OR (II) ARISING FROM ANY DISPUTE OR CONTROVERSY IN CONNECTION WITH OR RELATED TO THIS LOAN AGREEMENT OR THE PROMISSORY NOTE, OR ANY SUCH AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT, AND AGREES THAT ANY SUCH ACTION OR COUNTERCLAIM SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.**

**THE BORROWER IRREVOCABLY AGREES THAT, SUBJECT TO THE ISSUER'S SOLE AND ABSOLUTE ELECTION, ANY ACTION OR PROCEEDING IN ANY WAY, MANNER OR RESPECT ARISING OUT OF THIS LOAN AGREEMENT, THE PROMISSORY NOTE AND THE OTHER BORROWER DOCUMENTS, OR ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HEREWITH OR THEREWITH, OR ARISING FROM ANY DISPUTE OR CONTROVERSY ARISING IN CONNECTION WITH OR RELATED TO THIS LOAN AGREEMENT, THE PROMISSORY NOTE AND THE OTHER BORROWER DOCUMENTS, OR ANY SUCH AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT, SHALL BE LITIGATED ONLY IN THE COURTS HAVING SITUS WITHIN THE CITY OF CHICAGO, STATE OF ILLINOIS, AND THE BORROWER HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED WITHIN SUCH CITY AND STATE. THE BORROWER HEREBY WAIVES ANY RIGHT IT MAY HAVE TO TRANSFER OR CHANGE THE VENUE OF ANY LITIGATION BROUGHT AGAINST IT IN ACCORDANCE WITH THIS SECTION.**

**Section 9.11 Captions.** The captions and headings in this Loan Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Loan Agreement.

IN WITNESS WHEREOF, the Issuer and the Borrower have caused this Loan Agreement to be executed in their respective official names and their respective official seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

**CITY OF CHICAGO**, as Issuer

By:

\_\_\_\_\_  
 Name: Jill Jaworski  
 Title: Chief Financial Officer

Seal

ATTEST:

By: \_\_\_\_\_  
Name: Andrea M. Valencia  
Title: City Clerk

**MHL 2 PRAIRIE DISTRICT APARTMENTS –  
WABASH LP,**  
an Illinois limited partnership

By: MHL 2 Prairie District Apartments-Wabash  
GP LLC,  
an Illinois limited liability company,

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ZIONS BANCORPORATION, NATIONAL  
ASSOCIATION, as Trustee**

By: \_\_\_\_\_  
Name: Anna McCully  
Title: Vice President

(Sub)Exhibits "A", "B" and "C" referred to in this Loan Agreement read as follows:

(Sub)Exhibit "A".  
(To Loan Agreement)

Form Of Note.

*This Note has not been registered under the Securities Act of 1933. Its transferability is restricted by the Bond Indenture and the Loan Agreement referred to herein.*

\$ \_\_\_\_\_, 2024

MHL 2 PRAIRIE DISTRICT APARTMENTS – WABASH LP, an Illinois limited partnership (the "**Borrower**"), for value received, promises to pay in installments to Zions Bancorporation, National Association, as trustee (the "**Trustee**") under the Indenture hereinafter referred to, the principal amount of

\_\_\_\_\_ MILLION \_\_\_\_\_ THOUSAND AND 00/100 DOLLARS

and to pay interest on the unpaid balance of such principal sum from and after the date hereof at the rate of \_\_\_\_\_% per annum through and including \_\_\_\_\_ 1, 202\_, and thereafter at the applicable Remarketing Rate (as defined in the Indenture described below), until the payment of such principal sum has been made or provided for. The principal amount stated above shall be paid on or before \_\_\_\_\_ 1, 202\_ (the "Final Mandatory Tender Date"). Interest shall be calculated on the basis of a 360-day year of 12 equal months. Interest on this Note shall be paid at least one Business Day prior to (a) each \_\_\_\_\_ 1 and \_\_\_\_\_ 1, commencing \_\_\_\_\_ 1, 202\_, (b) each Redemption Date, (c) each Mandatory Tender Date, (d) the Maturity Date and (e) the date of acceleration of the Bonds (the "**Interest Payment Dates**"). Terms used but not defined herein shall have the meanings ascribed to such terms in the Indenture, as defined below.

This Note has been executed and delivered by the Borrower to the Trustee pursuant to a certain Loan Agreement dated as of \_\_\_\_\_, 2024 (the "**Loan Agreement**"), between the City of Chicago, a municipality and home rule unit of government duly organized and validly existing under the Constitution and the laws of the State of Illinois (the "**Issuer**") and the Borrower.

Under the Loan Agreement, the Issuer has loaned the Borrower the principal proceeds received from the sale of its \$ \_\_\_\_\_ Multi-Family Housing Revenue Bonds (Prairie District Apartments Project), Series 2024 (the "**Bonds**"), to assist in the financing of the Project, and the Borrower has agreed to repay such loan by making payments ("**Loan Payments**") at the times and in the amounts set forth in this Note for application to the payment of principal of and interest on the Bonds as and when due. The Bonds have been issued, concurrently with the execution and delivery of this Note, pursuant to, and are secured by, the Indenture dated as of \_\_\_\_\_, 2024 (the "**Indenture**"), between the Issuer and the Trustee.

To provide funds to pay the principal of and interest on the Bonds as and when due as specified herein, the Borrower hereby agrees to and shall make Loan Payments in amounts on each Interest Payment Date equal to the Bond Service Charges on the Bonds payable on such Interest Payment Date. In addition, to provide funds to pay the Bond Service Charges on the Bonds as and when due at any other time, the Borrower hereby agrees to and shall make Loan Payments at least one Business Day prior to the date on which any Bond Service Charges on the Bonds shall be due and payable, whether at maturity, upon acceleration or otherwise, in an amount equal to those Bond Service Charges.

If payment or provision for payment in accordance with the Indenture is made in respect of the Bond Service Charges on the Bonds from money other than Loan Payments, this Note shall be deemed paid to the extent such payments or provision for payment of Bonds has been made. Consistent with the provisions of the immediately preceding sentence, the Borrower shall have credited against its obligation to make Loan Payments any amounts transferred from the Project Fund or the Collateral Fund to the Bond Fund. Subject to the foregoing, all Loan Payments shall be in the full amount required hereunder.

All Loan Payments shall be made to the Trustee at its Designated Office for the account of the Issuer and deposited in the Bond Fund created by the Indenture. Except as otherwise provided in the Indenture, the Loan Payments shall be used by the Trustee to pay the Bond Service Charges on the Bonds as and when due.

The obligation of the Borrower to make the payments required hereunder shall be absolute and unconditional and the Borrower shall make such payments without abatement, diminution or deduction regardless of any cause or circumstances whatsoever including, without limitation, any defense, set-off, recoupment or counterclaim which the Borrower may have or assert against the Issuer, the Trustee or any other Person.

This Note is subject to prepayment, in whole or in part, upon the terms and conditions relating to the redemption of the Bonds set forth in Article 3 of the Indenture. Any prepayment is subject to satisfaction of any applicable notice, deposit or other requirements set forth in the Agreement or the Indenture.

Whenever an event of default under Section 6.01 of the Indenture shall have occurred and, as a result thereof, the principal of and any premium on all Bonds then Outstanding, and interest accrued thereon, shall have been declared to be immediately due and payable pursuant to Section 6.02 of the Indenture, the unpaid principal amount of and any premium and accrued interest on this Note shall also be due and payable in Federal Reserve funds on the date on which the principal of and premium and interest on the Bonds shall have been declared due and payable; provided that the annulment of a declaration of acceleration with respect to the Bonds shall also constitute an annulment of any corresponding declaration with respect to this Note.

The payment obligations of this Note are non-recourse to the Borrower to the extent set forth in Section 9.03 of the Loan Agreement.

Enforcement of the covenants in this Note will not result in, and neither the Issuer nor the Trustee has or shall be entitled to assert, any claim against the Project, the Mortgage Loan proceeds, or the rents or deposits or other income of the Project.

Failure of the Issuer or the Borrower to comply with any of the covenants set forth in this Note will not serve as a basis for default on the Mortgage Loan, the underlying mortgage, or any of the other Mortgage Loan Documents.

IN WITNESS WHEREOF, the Borrower has caused this Note to be executed in its name as of the date first above written.

**MHL 2 PRAIRIE DISTRICT APARTMENTS –  
WABASH LP,**  
an Illinois limited partnership

By: MHL 2 Prairie District Apartments-Wabash  
GP LLC,  
an Illinois limited liability company,

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ENDORSEMENT**

Pay to the order of Zions Bancorporation, National Association, without recourse, as Trustee under the Indenture referred to in the within mentioned Note, as security for the Bonds issued under the Indenture. This endorsement is given without any warranty as to the authority or genuineness of the signature of the maker of the Note.

This \_\_\_ day of \_\_\_\_\_, 2024.

**CITY OF CHICAGO**, as Issuer

By: \_\_\_\_\_  
Name: Jill Jaworski  
Title: Chief Financial Officer

(Sub)Exhibit "B".  
(To Loan Agreement)

Form Of Requisition.  
(Project Fund).

[Trustee]

**\$ \_\_\_\_\_ Multi-Family Housing Revenue Bonds  
(Prairie District Apartments Project)  
Series 2024**

Ladies and Gentlemen:

Pursuant to Section 3.06 of the Loan Agreement dated as of \_\_\_\_\_, 2024 (the "**Loan Agreement**") among the **CITY OF CHICAGO** (the "**Issuer**"), **MHL 2 PRAIRIE DISTRICT APARTMENTS – WABASH LP**, an Illinois limited partnership (the "**Borrower**"), and Zions Bancorporation, National Association, as Trustee (the "**Trustee**"), the undersigned Authorized Borrower Representative hereby requests and authorizes the Trustee, as depository of the Project Fund created by the Indenture dated as of \_\_\_\_\_, 2024 (the "**Indenture**"), between the Issuer and the Trustee, to pay to the Borrower, to \_\_\_\_\_, as Lender, or to the person(s) listed on the Schedule I hereto out of the money deposited in the Project Fund to pay the costs of the items listed in Schedule I.

1. REQUISITION NO.: \_\_\_\_\_
2. PAYMENT DUE TO: [SEE ATTACHED SCHEDULE I]
3. AMOUNT TO BE DISBURSED: \$ \_\_\_\_\_ [SEE ATTACHED SCHEDULE I]
4. The amount requested to be disbursed pursuant to this Requisition will be used to pay costs of the Project (as such term is defined in the Indenture) detailed in Schedule I attached to this Requisition.
5. With respect to a disbursement from the Project Fund, the undersigned certifies that:
  - (a) the amounts included in 3 above were made or incurred or financed and were necessary for the Project and were made or incurred in accordance with the construction contracts, plans and specifications heretofore in effect;
  - (b) the amount paid or to be paid, as set forth in this Requisition, represents a part of the funds due and payable for costs of the Project, such funds were not paid in advance of the time, if any, fixed for payment and such funds are due in accordance with the terms of any contracts applicable to the Project and in accordance with usual and customary practice under existing conditions;
  - (c) the expenditures for which amounts are requisitioned represent proper charges against the Project Fund, have not been included in any previous requisition, have been properly recorded on the Borrower's books and are set forth in Schedule I, with paid invoices attached for any sums for which reimbursement is requested;

(d) the moneys requisitioned are not greater than those necessary to meet obligations due and payable or to reimburse the Borrower for its funds actually advanced for costs of the Project and do not represent a reimbursement to the Borrower for working capital;

(e) the amount remaining in the Project Fund, together with expected investment income on the Project Fund will, after payment of the amount requested by this Requisition, be sufficient to pay the Costs of completing the Project substantially in accordance with the construction contracts, plans and specifications and building permits therefor, if any, currently in effect;

(f) all of the funds being requisitioned are being used in compliance with all tax covenants set forth in the Indenture, the Loan Agreement and the Land Use Restriction Agreement;

(g) the full amount of each disbursement will be applied to pay or to reimburse the Borrower for the payment of Costs and that, after taking into account the proposed disbursement,

(A) at least 95% of the proceeds of the Bonds pursuant to all written requisitions will be used for Qualified Project Costs to provide a qualified residential rental project (as defined in Section 142(d) of the Code); and

(B) less than 25% of the Net Proceeds of the Bonds will be disbursed to pay or to reimburse the Borrower for the cost of acquiring land;

(h) the Borrower is not in default under the Loan Agreement or the Land Use Restriction Agreement and nothing has occurred to the knowledge of the Borrower that would prevent the performance of its obligations under the Loan Agreement or the Land Use Restriction Agreement; and

(i) **[no amounts being requisitioned by this Requisition will be used to pay, or reimburse, any Costs of issuance incurred in connection with the issuance of the Bonds.]**

6. The Borrower has on file, copies of invoices or bills of sale covering all items for which payment is being requested.

Requisition submitted this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

**MHL 2 PRAIRIE DISTRICT APARTMENTS –  
WABASH LP,**  
an Illinois limited partnership

MHL 2 Prairie District Apartments-Wabash GP  
LLC,  
an Illinois limited liability company

By: \_\_\_\_\_  
Name:  
Title:

[Schedule 1 referred to in this Form of Requisition (Project Fund)  
unavailable at time of printing.]

(Sub)Exhibit "C".  
(To Loan Agreement)

Completion Certificate.

\$ \_\_\_\_\_ Multi-Family Housing Revenue Bonds  
(Prairie District Apartments Project)  
Series 2024

Pursuant to Section 3.09 of the Loan Agreement dated as of \_\_\_\_\_, 2024 (the "Loan Agreement") among the CITY OF CHICAGO (the "Issuer"), MHL 2 PRAIRIE DISTRICT APARTMENTS - WABASH LP, an Illinois limited partnership (the "Borrower"), and Zions Bancorporation, National Association, as Trustee (the "Trustee") and relating to the above-captioned Bonds, the undersigned Authorized Borrower Representative hereby certifies that (with capitalized words and terms used and not defined in this Certificate having the meanings assigned or referenced in the Loan Agreement):

(a) The Project was substantially completed and available and suitable for use as multifamily housing on \_\_\_\_\_.

(b) The acquisition, construction, equipping and improvement of the Project and those other facilities have been accomplished in such a manner as to conform in all material respects with all applicable zoning, planning, building, environmental and other similar governmental regulations.

(c) The costs of the Project financed with the Loan were \$ \_\_\_\_\_.

(d) Except [as provided in subsection (e) of this Certificate][for amounts retained by the Lender in the \_\_\_\_\_ for the payment of costs of the Project not yet due or for liabilities which the Borrower is contesting or which otherwise should be retained], all costs of that acquisition and installation due on or after the date of this Certificate and now payable have been paid.

[(e) The Trustee shall retain \$ \_\_\_\_\_ in the Project Fund for the payment of costs of the Project not yet due or for liabilities which the Borrower is contesting or which otherwise should be retained, for the following reasons:]

(e) At least 95% of the proceeds of the Bonds were expended for Qualified Project Costs as defined in the Indenture.

(f) This Certificate is given without prejudice to any rights against third parties that now exist or subsequently may come into being.

IN WITNESS WHEREOF, the Authorized Borrower Representative has set his or her hand as of the \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

**MHL 2 PRAIRIE DISTRICT APARTMENTS -  
WABASH LP,**  
an Illinois limited partnership

By: MHL 2 Prairie District Apartments-Wabash  
GP LLC,  
an Illinois limited liability company,

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*Exhibit "D".*  
(To Ordinance)

*Land Use Restriction Agreement.*

**THIS LAND USE RESTRICTION AGREEMENT** (this "**Agreement**"), entered into as of \_\_\_\_\_, 2024, between the **CITY OF CHICAGO**, a municipal corporation and home rule unit of local government duly organized and validly existing under the Constitution and laws of the State of Illinois (the "**Issuer**"), and **MHL 2 PRAIRIE DISTRICT APARTMENTS – WABASH LP**, an Illinois limited partnership (the "**Owner**"),

**WITNESSETH:**

**WHEREAS**, the Issuer has issued, sold and delivered its \$\_\_\_\_\_ Multi-Family Housing Revenue Bonds (Prairie District Apartments Project), Series 2024 (the "**Bonds**"); and

**WHEREAS**, the Bonds are issued pursuant to the Indenture of even date herewith (the "**Indenture**"), between the Issuer and Zions Bancorporation, National Association, as trustee (the "**Trustee**"); and

**WHEREAS**, the proceeds derived from the issuance and sale of the Bonds are being lent by the Issuer to the Owner pursuant to the Loan Agreement of even date herewith (the "**Loan Agreement**"), between the Issuer and the Owner for the purpose of financing a portion of the costs of the acquisition, rehabilitation and equipping of a six-story building located generally at 1801 S. Wabash Avenue in Chicago, Illinois on land more particularly described on **Exhibit A** hereto (the "**Property**"), to contain 100 studios (the "**Units**") affordable for rental to households earning at or below 80 percent of the area median income with at least 40 percent or more of the Units occupied by households earning 60 percent or less of the area median income, as well as a ground floor devoted to residential amenities and community space (collectively, the "**Project**"); and

**WHEREAS**, in order to assure the Issuer and the purchasers of the Bonds (the " **Holders**") that interest on the Bonds will be excluded from gross income for federal income tax purposes under the Internal Revenue Code of 1986 (the "**Code**"), and to further the public purposes of the Issuer, certain restrictions on the use and occupancy of the Project under the Code must be established;

**NOW, THEREFORE**, in consideration of the mutual promises and covenants hereinafter set forth, and of other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the Owner and the Issuer agree as follows:

**Section 1. Term of Restrictions**

(a) **Occupancy Restrictions.** The term of the Occupancy Restrictions set forth in Section 3 hereof shall commence on the first day on which at least 10% of the Units are first occupied following completion of the Project and shall end on the latest of (i) the date which is 15 years after the date on which at least 50% of the Units in the Project are first occupied; (ii) the first date on which no tax-exempt note or bond (including any refunding note or bond) issued with respect to the Project is outstanding; or (iii) the date on which any housing assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937, as amended,

terminates (which period is hereinafter referred with respect to the Project as the “**Qualified Project Period**”).

(b) **Rental Restrictions.** The Rental Restrictions with respect to the Project set forth in Section 4 hereof shall remain in effect during the Qualified Project Period.

(c) **Involuntary Loss or Substantial Destruction.** The Occupancy Restrictions set forth in Section 3 hereof, and the Rental Restrictions set forth in Section 4 hereof, shall cease to apply to the Project in the event of involuntary noncompliance caused by fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in federal law or an action of a federal City (with respect to the Project) after the date of delivery of the Bonds, which prevents the Issuer from enforcing the Occupancy Restrictions and the Rental Restrictions (with respect to the Project), or condemnation or similar event (with respect to the Project), but only if, within a reasonable time, (i) all of the Bonds are promptly retired, or amounts received as a consequence of such event are used to provide a new project which meets all of the requirements of this Agreement, which new project is subject to new restrictions substantially equivalent to those contained in this Agreement, and which is substituted in place of the Project by amendment of this Agreement; and (ii) an opinion from nationally recognized bond counsel (selected by the Issuer) is received to the effect that noncompliance with the Occupancy Restrictions and the Rental Restrictions applicable to the Project as a result of such involuntary loss or substantial destruction resulting from an unforeseen event with respect to the Project will not adversely affect the exclusion of the interest on the Bonds from the gross income of the Holders for purposes of federal income taxation; provided, however, that the preceding provisions of this paragraph shall cease to apply in the case of such involuntary noncompliance caused by foreclosure, transfer of title by deed in lieu of foreclosure or similar event if at any time during the Qualified Project Period with respect to the Project subsequent to such event the Owner or any Affiliated Party (as hereinafter defined) obtains an ownership interest in the Project for federal income tax purposes. “**Affiliated Party**” means a person whose relationship to another person is such that (i) the relationship between such persons would result in a disallowance of losses under Section 267 or 707(b) of the Code; or (ii) such persons are members of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that “more than 50%” shall be substituted for “at least 80%” each place it appears therein).

(d) **Termination.** This Agreement shall terminate with respect to the Project upon the earliest of (i) termination of the Occupancy Restrictions and the Rental Restrictions with respect to the Project, as provided in paragraphs (a) and (b) of this Section 1; or (ii) delivery to the Issuer and the Owner of an opinion of nationally recognized bond counsel (selected by the Issuer) to the effect that continued compliance of the Project with the Rental Restrictions and the Occupancy Restrictions applicable to the Project is not required in order for interest on the Bonds to remain excludible from gross income for federal income tax purposes.

(e) **Certification.** Upon termination of this Agreement, the Owner and the Issuer shall execute and cause to be recorded (at the Owner’s expense), in all offices in which this Agreement was recorded, a certificate of termination, specifying which of the restrictions contained herein has terminated.

**Section 2. Project Restrictions.** The Owner represents, warrants and covenants that:

(a) The Owner has reviewed the provisions of the Code and the Treasury Regulations thereunder (the “**Regulations**”) applicable to this Agreement (including, without limitation, Section 142(d) of the Code and Section 1.103-8(b) of the Regulations) with its counsel and understands said provisions.

(b) The Project is being acquired and constructed for the purpose of providing a “qualified residential rental project” (as such phrase is used in Section 142(d) of the Code) and will, during the term of the Rental Restrictions and Occupancy Restrictions hereunder applicable to the Project, continue to constitute a “qualified residential rental project” under Section 142(d) of the Code and any Regulations heretofore or hereafter promulgated thereunder and applicable thereto.

(c) Substantially all (not less than 95%) of the Project will consist of a “building or structure” (as defined in Section 1.103-8(b)(8)(iv) of the Regulations), or several proximate buildings or structures, of similar construction, each containing one or more similarly constructed residential units (as defined in Section 1.103-8(b)(8)(i) of the Regulations) located on a single tract of land or contiguous tracts of land (as defined in Section 1.103-8(b)(4)(ii)-(B) of the Regulations), which will be owned, for federal tax purposes, at all times by the same person, and financed pursuant to a common plan (within the meaning of Section 1.103-8(b)(4)(ii) of the Regulations), together with functionally related and subordinate facilities (within the meaning of Section 1.103-8(b)(4)(iii) of the Regulations). If any such building or structure contains fewer than five (5) units, no unit in such building or structure shall be Owner-occupied.

(d) None of the Units in the Project will at any time be used on a transient basis, nor will the Project itself be used as a hotel, motel, dormitory, fraternity or sorority house, rooming house, hospital, nursing home, sanitarium, rest home or trailer park or court for use on a transient basis; nor shall any portion of the Project be operated as an assisted living facility which provides continual or frequent nursing, medical or psychiatric services; *provided, however* that nothing herein shall be understood to prohibit single-room-occupancy units occupied under month-to-month leases.

(e) All of the Units in the Project will be leased or rented, or available for lease or rental, on a continuous basis to members of the general public (other than (i) Units for resident managers or maintenance personnel, (ii) Units for Qualifying Tenants as provided for in Section 3 hereof, and (iii) Units which may be rented under the Section 8 assistance program, which units (subject to the Section 8 assistance program) shall be leased to eligible tenants in accordance with Section requirements), subject, however, to the requirements of Section 3(a) hereof. Each Qualifying Tenant (as hereinafter defined) occupying a Unit in the Project shall be required to execute a written lease with a stated term of not less than 30 days nor more than one year.

(f) Any functionally related and subordinate facilities (*e.g.*, parking areas, swimming pools, tennis courts, etc.) which are included as part of the Project will be of a character and size commensurate with the character and size of the Project, and will be made available to all tenants

in the Project on an equal basis; fees will only be charged with respect to the use thereof if the charging of fees is customary for the use of such facilities at similar residential rental properties in the surrounding area (*i.e.*, within a one-mile radius), or, if none, then within comparable urban settings in the City of Chicago, and then only in amounts commensurate with the fees being charged at similar residential rental properties within such area. In any event, any fees charged will not be discriminatory or exclusionary as to the Qualifying Tenants (as defined in Section 3 hereof). No functionally related and subordinate facilities will be made available to persons other than tenants or their guests.

(g) Each residential unit in the Project will contain separate and complete facilities for living, sleeping, eating, cooking and sanitation for a single person or family.

(h) No portion of the Project will be used to provide any health club facility (except as provided in (f) above), any facility primarily used for gambling, or any store, the principal business of which is the sale of alcoholic beverages for consumption off premises, in violation of Section 147(e) of the Code.

**Section 3. Occupancy Restrictions.** The Owner represents, warrants and covenants with respect to the Project that:

(a) Pursuant to the election of the Issuer in accordance with the provisions of Section 142(d)(1)(A) of the Code, at all times during the Qualified Project Period with respect to the Project at least 40% of the completed Units in the Project shall be continuously occupied (or treated as occupied as provided herein) or held available for occupancy by Qualifying Tenants as herein defined. For purposes of this Agreement, “**Qualifying Tenants**” means individuals or families whose aggregate adjusted incomes do not exceed 60% of the applicable median gross income (adjusted for family size) for the area in which the Project is located, as such income and area median gross income are determined by the Secretary of the United States Treasury in a manner consistent with determinations of income and area median gross income under Section 8 of the United States Housing Act of 1937, as amended (or, if such program is terminated, under such program as in effect immediately before such determination).

(b) Prior to the commencement of occupancy of any unit to be occupied by a Qualifying Tenant, the prospective tenant’s eligibility shall be established by execution and delivery by such prospective tenant of an Income Computation and Certification in the form attached hereto as **Exhibit B** (the “**Income Certification**”) evidencing that the aggregate adjusted income of such prospective tenant does not exceed the applicable income limit. In addition, such prospective tenant shall be required to provide whatever other information, documents or certifications are reasonably deemed necessary by the Owner or the Issuer to substantiate the Income Certification.

(c) Not less frequently than annually, the Owner shall determine whether the current aggregate adjusted income of each tenant occupying any unit being treated by the Owner as occupied by a Qualifying Tenant exceeds the applicable income limit. For such purpose the Owner shall require each such tenant to execute and deliver the Income Certification; *provided, however,*

that for any calendar year during which no unit in the Project is occupied by a new resident who is not a qualifying tenant, no Income Computation and Certification for existing tenants shall be required.

(d) Any unit vacated by a Qualifying Tenant shall be treated as continuing to be occupied by such tenant until reoccupied, other than for a temporary period not to exceed 31 days, at which time the character of such unit as a unit occupied by a Qualifying Tenant shall be redetermined.

(e) If an individual's or family's income exceeds the applicable income limit as of any date of determination, the income of such individual or family shall be treated as continuing not to exceed the applicable limit, provided that the income of an individual or family did not exceed the applicable income limit upon commencement of such tenant's occupancy or as of any prior income determination, and provided, further, that if any individual's or family's income as of the most recent income determination exceeds 140% of the applicable income limit, such individual or family shall cease to qualify as a Qualifying Tenant if, prior to the next income determination of such individual or family, any unit in the Project of comparable or smaller size to such individual's or family's unit is occupied by any tenant other than a Qualifying Tenant.

(f) The lease to be utilized by the Owner in renting any Unit in the Project to a prospective Qualifying Tenant shall provide for termination of the lease and consent by such person to eviction following 30 days' written notice, subject to applicable provisions of Illinois law (including for such purpose all applicable home rule ordinances), for any material misrepresentation made by such person with respect to the Income Certification with the effect that such tenant is not a Qualified Tenant.

(g) All Income Certifications will be maintained on file at the Project as long as the Bonds are outstanding and for five years thereafter with respect to each Qualifying Tenant who occupied a Unit in the Project during the period the restrictions hereunder are applicable, and the Owner will, promptly upon receipt, file a copy thereof with the Issuer.

(h) On the first day of the Qualified Project Period with respect to the Project, on the fifteenth days of January, April, July and October of each year during the Qualified Project Period with respect to the Project, and within 30 days after the final day of each month in which there occurs any change in the occupancy of a Unit in the Project, the Owner will submit to the Issuer a "Certificate of Continuing Program Compliance," in the form attached hereto as **Exhibit C** executed by the Owner with respect to the Project.

(i) The Owner shall submit to the Secretary of the United States Treasury (at such time and in such manner as the Secretary shall prescribe) with respect to the Project an annual certification on Form 8703 as to whether the Project continues to meet the requirements of Section 142(d) of the Code. Failure to comply with such requirement may subject the Owner to the penalty provided in Section 6652(j) of the Code.

**Section 4. Rental Restrictions.** The Owner represents, warrants and covenants with respect to the Project that once available for occupancy, each Unit in the Project will be rented or available for rental on a continuous basis to members of the general public (other than (a) Units for resident managers or maintenance personnel, (b) Units for Qualifying Tenants as provided for in Section 3 hereof, and (c) Units which may be rented under the Section 8 assistance program, which Units (subject to the Section 8 assistance program) shall be leased to eligible tenants in accordance with Section 8 requirements). If a Housing Assistance Payments Contract is subsequently entered into with respect to the Project under the Section 8 assistance program, in administering the restrictions hereunder with respect to the Project the Owner will comply with all Section 8 requirements.

**Section 5. Transfer Restrictions.** The Owner covenants and agrees that no conveyance, transfer, assignment or any other disposition of title to any portion of the Project (a “**Transfer**”) shall be made prior to the termination of the Rental Restrictions and Occupancy Restrictions hereunder with respect to the Project, unless the transferee pursuant to the Transfer assumes in writing (the “**Assumption Agreement**”), in a form reasonably acceptable to the Issuer, all of the executory duties and obligations hereunder of the Owner with respect to such portion of the Project, including those contained in this Section 5, and agrees to cause any subsequent transferee to assume such duties and obligations in the event of a subsequent Transfer by the transferee prior to the termination of the Rental Restrictions and Occupancy Restrictions hereunder with respect to the Project. The Owner shall deliver the Assumption Agreement to the Issuer at least 30 days prior to a proposed Transfer. This Section 5 shall not apply to any involuntary transfer pursuant to Section 1(c) hereof. This Section shall not be deemed to restrict the transfer of any partnership interest in the Owner or a transfer by foreclosure or deed in lieu of foreclosure.

**Section 6. Enforcement**

(a) Upon reasonable notice and during regular business hours, the Owner shall permit all duly authorized representatives of the Issuer to inspect any books and records of the Owner regarding the Project and the incomes of Qualifying Tenants which pertain to compliance with the provisions of this Agreement and Section 142(d) of the Code and the regulations heretofore or hereafter promulgated thereunder.

(b) In addition to the information provided for in Section 3(i) hereof, the Owner shall submit any other information, documents or certifications reasonably requested by the Issuer, which the Issuer deems reasonably necessary to substantiate continuing compliance with the provisions of this Agreement and Section 142(d) of the Code and the regulations heretofore or hereafter promulgated thereunder.

(c) The Issuer and the Owner each covenant that it will not take or permit to be taken any action within its control that it knows would adversely affect the exclusion of interest on the Bonds from the gross income of the Holders thereof for purposes of federal income taxation pursuant to Section 103 of the Code. Moreover, each covenants to take any lawful action within its control (including amendment of this Agreement as may be necessary in the opinion of nationally recognized bond counsel selected by the Issuer) to comply fully with all applicable rules,

rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service from time to time pertaining to obligations issued under Section 142(d) of the Code and affecting the Project.

(d) The Owner covenants and agrees to inform the Issuer by written notice of any violation of its obligations hereunder within five days of first discovering any such violation. If any such violation is not corrected to the satisfaction of the Issuer within the period of time specified by the Issuer, which shall be (i) the lesser of (A) 60 days after the effective date of any notice to or from the Owner, or (B) 75 days from the date such violation would have been discovered by the Owner by the exercise of reasonable diligence, or (ii) such longer period as may be necessary to cure such violation, provided bond counsel (selected by the Issuer) of nationally recognized standing in matters pertaining to the exclusion of interest on municipal bonds from gross income for purposes of federal income taxation issues an opinion that such extension will not result in the loss of such exclusion of interest on the Bonds, without further notice, the Issuer shall declare a default under this Agreement effective on the date of such declaration of default, and the Issuer shall apply to any, court, state or federal, for specific performance of this Agreement or an injunction against any violation of this Agreement, or any other remedies at law or in equity or any such other actions as shall be necessary or desirable so as to correct noncompliance with this Agreement.

(e) The Owner and the Issuer each acknowledges that the primary purposes for requiring compliance with the restrictions provided in this Agreement are to preserve the exclusion of interest on the Bonds from gross income for purposes of federal income taxation, and that the Issuer, on behalf of the owners of the Bonds, who are declared to be third-party beneficiaries of this Agreement, shall be entitled for any breach of the provisions hereof, to all remedies both at law and in equity in the event of any default hereunder.

(f) In the enforcement of this Agreement, the Issuer may rely on any certificate delivered by or on behalf of the Owner or any tenant with respect to the Project.

(g) Nothing in this Section shall preclude the Issuer from exercising any remedies it might otherwise have, by contract, statute or otherwise, upon the occurrence of any violation hereunder.

(h) Notwithstanding anything to the contrary contained herein, the Issuer hereby agrees that any cure of any default made or tendered by one or more of the Owner's partner shall be deemed to be a cure by the Owner and shall be accepted or rejected on the same basis as if made or tendered by the Owner.

**Section 7. Covenants to Run with the Land.** The Owner hereby subjects the Project, the Site and the Units to the covenants, reservations and restrictions set forth in this Agreement. The Issuer and the Owner hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants, reservations and restrictions running with the land to the extent permitted by law, and shall pass to and be binding upon the Owner's successors in title to the Project, the Units, and the Site, throughout the term of this Agreement.

Each and every contract, deed, mortgage, lease or other instrument hereafter executed covering or conveying the Project, the Units or the Site, or any portion thereof or interest therein (excluding any transferee of a membership interest in the Owner), shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed, mortgage, lease or other instrument.

**Section 8. Recording.** The Owner shall cause this Agreement and all amendments and supplements hereto to be recorded in the conveyance and real property records of Cook County, Illinois, and in such other places as the Issuer may reasonably request. The Owner shall pay all fees and charges incurred in connection with any such recording.

**Section 9. Agents of the Issuer.** The Issuer shall have the right to appoint agents to carry out any of its duties and obligations hereunder, and shall, upon written request, certify in writing to the other party hereto any such City appointment.

**Section 10. No Conflict with Other Documents.** The Owner warrants and covenants that it has not and will not execute any other agreement with provisions inconsistent or in conflict with the provisions hereof (except documents that are subordinate to the provisions hereof), and the Owner agrees that the requirements of this Agreement are paramount and controlling as to the rights and obligations herein set forth, which supersede any other requirements in conflict herewith.

**Section 11. Interpretation.** Any capitalized terms not defined in this Agreement shall have the same meaning as terms defined in the Bond Indenture and the Loan Agreement or Section 142(d) of the Code and the regulations heretofore or hereafter promulgated thereunder.

**Section 12. Amendment.** Subject to any restrictions set forth in the Bond Indenture, this Agreement may be amended by the parties hereto to reflect changes in Section 142(d) of the Code, the regulations hereafter promulgated thereunder and revenue rulings promulgated thereunder, or in the interpretation thereof.

**Section 13. Severability.** The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.

**Section 14. Notices.** Any notice, demand or other communication required or permitted hereunder shall be in writing and shall be deemed to have been given if and when personally delivered and receipted for, or, if sent by private courier service or sent by overnight mail service, shall be deemed to have been given if and when received (unless the addressee refuses to accept delivery, in which case it shall be deemed to have been given when first presented to the addressee for acceptance), or on the first day after being sent by telegram, or on the third day after being

deposited in United States registered or certified mail, postage prepaid. Any such notice, demand or other communication shall be given as provided for in the applicable sections of the Indenture.

**Section 15. Governing Law.** The laws of the State of Illinois shall govern the construction of this Agreement, without reference to its conflicts of laws principles.

**Section 16. Limited Liability of Owner.** Notwithstanding any other provision or obligation stated in or implied by this Agreement to the contrary, any and all undertakings and agreements of the Owner contained herein shall not (other than as expressly provided hereinafter in this paragraph) be deemed, interpreted or construed as the personal undertaking or agreement of, or as creating any personal liability upon, any past, present or future partner of the Owner, and no recourse (other than as expressly provided hereinafter in this paragraph) shall be had against the property of the Owner or any past, present or future partner of the Owner, personally or individually for the performance of any undertaking, agreement or obligation, or the payment of any money, under this Agreement or any document executed or delivered by or on behalf of the Owner pursuant hereto or in connection herewith, or for any claim based thereon. It is expressly understood and agreed that the Issuer and the registered owner of the Bonds, and its respective successors and assigns, shall have the right to sue for specific performance of this Agreement and to otherwise seek equitable relief for the enforcement of the obligations and undertakings of the Owner hereunder, including, without limitation, obtaining an injunction against any violation of this Agreement or the appointment of a receiver to take over and operate all or any portion of the Project in accordance with the terms of this Agreement. This Section shall survive termination of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Land Use Restriction Agreement to be signed and sealed by their respective, duly authorized representatives, as of the day and year first above written.

**CITY OF CHICAGO**, as Issuer

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

Name: Jill Jaworski

Title: Chief Financial Officer

Seal

ATTEST:

By: \_\_\_\_\_  
Name: Andrea M. Valencia  
Title: City Clerk

This Land Use Restriction Agreement

Acknowledged and agreed to:

**MHL 2 PRAIRIE DISTRICT APARTMENTS –  
WABASH LP,**  
an Illinois limited partnership

By: MHL 2 Prairie District Apartments –  
Wabash LLC,  
an Illinois limited liability company,  
its General Partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF ILLINOIS )

) ss:  
COUNTY OF COOK )

BEFORE ME, the undersigned authority, on this day personally appeared Jill Jaworski and Andrea M. Valencia, the Chief Financial Officer and the City Clerk, respectively, of the City of Chicago, a municipal corporation and home rule unit of local government duly organized and validly existing under the Constitution and laws of the State of Illinois (the "Issuer"), known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that each executed the same for the purposes and consideration therein expressed and in the capacity therein stated, as the act and deed of said Issuer.

GIVEN UNDER MY HAND and seal of office, this the \_\_\_\_ day of \_\_\_\_\_, 2024.

[SEAL]

\_\_\_\_\_  
Notary Public in and for the State of Illinois

My commission expires on:

\_\_\_\_\_

STATE OF ILLINOIS )

) ss  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for the county and State aforesaid, do hereby certify that \_\_\_\_\_, personally known to me to be the President of MHL 2 Prairie District Apartments - Wabash LP, an Illinois limited liability company (the "General Partner"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such officer, he signed and delivered the said instrument, as the free and voluntary act of such person, and as the free and voluntary act and deed of the General Partner, for the uses and purposes therein set forth.

Given under my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2024.

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

(SEAL)

My commission expires on:

\_\_\_\_\_

[(Sub)Exhibit "A" referred to in this Land Use Restriction Agreement  
unavailable at time of printing.]

(Sub)Exhibits "B" and "C" referred to in this Land Use Restriction Agreement read as follows:

(Sub)Exhibit "B".  
(To Land Use Restriction Agreement)

Income Computation And Certification\*.

**NOTE TO APARTMENT OWNER:** This form is designed to assist you in computing Annual Income in accordance with the method set forth in the Department of Housing and Urban Development ("HUD") Regulations (24 CFR Part 5). You should make certain that this form is at all times up to date with HUD Regulations. All capitalized terms used herein shall have the meanings set forth in the Land Use Restriction Agreement, dated as of \_\_\_\_\_, 2024, among the City of Chicago and MHL 2 Prairie District Apartments – Wabash LP, an Illinois limited partnership (the "Owner").

Re: Prairie District Apartments Project  
Chicago, IL

I/We, the undersigned, being first duly sworn, state that I/we have read and answered fully and truthfully each of the following questions for all persons who are to occupy the unit in the above apartment project for which application is made. Listed below are the names of all persons who intend to reside in the unit:

Name of Members of the Household	Relationship to Head of Household	Age	Social Security Number	Place of Employment
	HEAD			
	SPOUSE			

6. **Total Anticipated Income.** The total anticipated income, calculated in accordance with this paragraph 6, of all persons listed above for the 12-month period beginning the date that I/we plan to move into a unit (i.e., \_\_\_\_\_) is \$ \_\_\_\_\_. Included in the total anticipated income listed above are:

- (a) the full amount, before payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (b) the net income from operation of a business or profession or net income from real or personal property (without deducting expenditures for business

\* The form of Income Computation and Certification shall be conformed to any amendments made to 24 CFR Part 5, or any regulatory provisions promulgated in substitution therefor.

expansion or amortization or capital indebtedness); an allowance for depreciation of capital assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulation; include any withdrawal of cash or assets from the operation of a business or profession, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the above persons;

- (c) interest and dividends (see 7(C) below);
- (d) the full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump sum payment for the delayed start of a periodic payment;
- (e) payments in lieu of earnings, such as unemployment and disability compensation, workmen's compensation and severance pay;
- (f) the amount of any public welfare assistance payment; if the welfare assistance payment includes any amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance City in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:
  - (i) the amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities, plus
  - (ii) the maximum amount that the welfare assistance City could in fact allow the family for shelter and utilities (if the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph 6(f) shall be the amount resulting from one application of the percentage);
- (g) periodic and determinable allowances, such as alimony and child support payments and regular contributions or gifts received from persons not residing in the dwelling; and
- (h) all regular pay, special pay and allowances of a member of the Armed Forces.

Excluded from such anticipated total income are:

- (a) income from employment of children (including foster children) under the age of 18 years;
- (b) payment received for the care of foster children or foster adults;

- (c) lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses;
- (d) amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- (e) income of a live-in aide;
- (f) the full amount of student financial assistance paid directly to the student or to the educational institution;
- (g) special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- (h) amounts received under training programs funded by the Department of Housing and Urban Development ("HUD");
- (i) amounts received by a disabled person that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);
- (j) amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
- (k) a resident service stipend in a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the Owner, on a part-time basis, that enhances the quality of life in the Project, including, but not limited to, fire patrol, hall monitoring, lawn maintenance and resident initiatives coordination (no resident may receive more than one stipend during the same period of time);
- (l) compensation from state or local employment training programs in training of a family member as resident management staff, which compensation is received under employment training programs (including training programs not affiliated with a local government) with clearly defined goals and objectives, and which compensation is excluded only for the period during which the family member participates in the employment training program;
- (m) reparations payment paid by a foreign government pursuant to claims filed under the laws of that government for persons who were persecuted during the Nazi era;
- (n) earnings in excess of \$480 for each full-time student, 18 years or older, but excluding the head of household and spouse;

- (o) adoption assistance payments in excess of \$480 per adopted child;
- (p) deferred periodic payments of supplemental security income and social security benefits that are received in a lump sum payment;
- (q) amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit;
- (r) amounts paid by a state City to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home;
- (s) temporary, nonrecurring or sporadic income (including gifts); and
- (t) amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply.

7. **Assets.**

- (a) Do the persons whose income or contributions are included in Item 6 above:
  - (i) have savings, stocks, bonds, equity in real property or other form of capital investment (excluding the values of necessary items of personal property such as furniture and automobiles, equity in a housing cooperative unit or in a manufactured home in which such family resides, and interests in Indian trust land)? \_\_\_\_\_ Yes \_\_\_\_\_ No.
  - (ii) have they disposed of any assets (other than at a foreclosure or bankruptcy sale) during the last two years at less than fair market value? \_\_\_\_\_ Yes \_\_\_\_\_ No.
- (b) If the answer to (i) or (ii) above is yes, does the combined total value of all such assets owned or disposed of by -all such persons total more than \$5,000? \_\_\_\_\_ Yes \_\_\_\_\_ No.
- (c) If the answer to (b) above is yes, state:
  - (i) the total value of all such assets: \$ \_\_\_\_\_
  - (ii) the amount of income expected to be derived from such assets in the 12-month period beginning on the date of initial occupancy of the unit that you propose to rent: \$ \_\_\_\_\_; and

(iii) the amount of such income, if any, that was included in Item 6 above: \$\_\_\_\_\_.

8. **Full-time Students.**

(a) Are all of the individuals who propose to reside in the unit full-time students? \_\_\_\_\_ Yes \_\_\_\_\_ No.

A full-time student is an individual enrolled as a full-time student (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended) during each of five calendar months during the calendar year in which occupancy of the unit begins at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance or an individual pursuing a full-time course of institutional or farm training under the supervision of an accredited agent of such an educational organization or of a state or political subdivision thereof.

(b) If the answer to 8(a) is yes, are at least two of the proposed occupants of the unit a husband and wife entitled to file a joint federal income tax return? \_\_\_\_\_ Yes \_\_\_\_\_ No.

9. **Relationship to Project Owner.** Neither I nor any other occupant of the unit I/we propose to rent is the Owner, has any family relationship to the Owner, or owns directly or indirectly any interest in the Owner. For purposes of this paragraph, indirect ownership by an individual shall mean ownership by a family member; ownership by a corporation, partnership, estate or trust in proportion to the ownership or beneficial interest in such corporation, partnership, estate or trust held by the individual or a family member; and ownership, direct or indirect, by a partner of the individual.

10. **Reliance.** This certificate is made with the knowledge that it will be relied upon by the Owner to determine maximum income for eligibility to occupy the unit and is relevant to the status under federal income tax law of the interest on obligations issued to provide financing for the apartment development for which application is being made. I/We consent to the disclosure of such information to the issuer of such obligations, the holders of such obligations, any fiduciary acting on their behalf and any authorized agent of the Treasury Department or the Internal Revenue Service. I/We declare that all information set forth herein is true, correct and complete and based upon information I/we deem reliable, and that the statement of total anticipated income contained in paragraph 6 is reasonable and based upon such investigation as the undersigned deemed necessary.

11. **Further Assistance.** I/We will assist the Owner in obtaining any information or documents required to verify the statements made herein, including, but not limited to,

either an income verification from my/our present employer(s) or copies of federal tax returns for the immediately preceding two calendar years.

12. **Misrepresentation.** I/We acknowledge that I/we have been advised that the making of any misrepresentation or misstatement in this declaration will constitute a material breach of my/our agreement with the Owner to lease the unit, and may entitle the Owner to prevent or terminate my/our occupancy of the unit by institution of an action for ejection or other appropriate proceedings.

I/We declare under penalty of perjury that the foregoing is true and correct. Executed this \_\_\_\_\_ day of \_\_\_\_\_ in \_\_\_\_\_, Illinois.

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Applicant

[Signature of all persons over the age of 18 years listed in 2 above required.]

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_

(NOTARY SEAL)

Notary Public in and for the State of \_\_\_\_\_

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

FOR COMPLETION BY APARTMENT OWNER ONLY:

1. Calculation of eligible income:

a. Enter amount entered for entire household in 6 above: \$ \_\_\_\_\_

b. (1) if the amount entered in 7(c)(i) above is greater than \$5,000, enter the total amount entered in 7(c)(ii), subtract from that figure the amount entered in 7(c)(iii) and enter the remaining balance (\$ \_\_\_\_\_);

(2) multiply the amount entered in 7(c)(i) times the current passbook savings rate as determined by HUD to determine what the total annual earnings on the amount in 7(c)(ii) would be if invested in passbook savings (\$ \_\_\_\_\_), subtract from that figure the amount entered in 7(c)(iii) and enter the remaining balance (\$ \_\_\_\_\_); and

(3) enter at right the greater of the amount calculated under (1) or (2) above: \$ \_\_\_\_\_.

c. TOTAL ELIGIBLE INCOME (Line 1.a plus line 1.b(3)): \$ \_\_\_\_\_

2. The amount entered in 1.c is:

\_\_\_\_\_ Less than 60% of Median Gross Income for Area.\*\*  
 \_\_\_\_\_ More than 60% of Median Gross Income for the Area.\*\*\*\*

3. Number of apartment unit assigned: \_\_\_\_\_  
 Bedroom Size: \_\_\_\_\_ Rent: \$ \_\_\_\_\_

4. The last tenants of this apartment unit for a period of 31 consecutive days [had/did not have] aggregate anticipated annual income, as certified in the above manner upon their initial occupancy of the apartment unit, of less than 60% of Median Gross Income for the Area.

5. Method used to verify applicant(s) income:

\_\_\_\_\_ Employer income verification.  
 \_\_\_\_\_ Copies of tax returns.  
 \_\_\_\_\_ Other ( \_\_\_\_\_ )

\_\_\_\_\_  
 Owner or Manager

\*\* "Median Gross Income for the Area" means the median income for the area where the Project is located as determined by the Secretary of Housing and Urban Development under Section 8(0(3) of the United States Housing Act of 1937, as amended, or if programs under Section 8(f) are terminated, median income determined under the method used by the Secretary prior to termination. "Median Gross Income for the Area" shall be adjusted for family size.

\*\*\* See footnote 2.

**INCOME VERIFICATION**

**(for employed persons)**

The undersigned employee has applied for a rental unit located in a project financed by the City of Chicago. Every income statement of a prospective tenant must be stringently verified. Please indicate below the employee's current annual income from wages, overtime, bonuses, commissions or any other form of compensation received on a regular basis.

Annual wages	_____
Overtime	_____
Bonuses	_____
Commissions	_____
Total current income	_____

I hereby certify that the statements above are true and complete to the best of my knowledge.

_____	_____	_____
Signature	Date	Title

I hereby grant you permission to disclose my income to MHL 2 Prairie District Apartments – Wabash LP, an Illinois limited partnership, in order that it may determine my income eligibility for rental of an apartment located in one of its projects which has been financed by the City of Chicago.

_____	_____
Signature	Date

Please send to:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**INCOME VERIFICATION**

**(for self-employed persons)**

I hereby attach copies of my individual federal and state income tax returns for the immediately preceding two calendar years and certify that the information shown in such income tax returns is true and complete to the best of my knowledge.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

(Sub)Exhibit "C".  
(To Land Use Restriction Agreement)

*Certificate Of Continuing Program Compliance.*

The undersigned, on behalf of MHL 2 Prairie District Apartments – Wabash LP, an Illinois limited partnership (the "Owner"), hereby certifies as follows:

1. The undersigned has read and is thoroughly familiar with the provisions of the Land Use Restriction Agreement, dated as of \_\_\_\_\_, 2024 (the "Land Use Restriction Agreement"), between the City of Chicago and the Owner. All capitalized terms used herein shall have the meanings given in the Land Use Restriction Agreement.

2. Based on Certificates of Tenant Eligibility on file with the Owner, as of the date of this Certificate the following number of completed Units in the Project (i) are occupied by Qualifying Tenants (as such term is defined in the Land Use Restriction Agreement), or (ii) were previously occupied by Lower-Income Tenants and have been vacant and not reoccupied except for a temporary period of no more than 31 days:

Occupied by Qualifying Tenants\*\*\*\*. \_\_\_\_\_ No. of Units

Previously occupied by Qualifying Tenants  
(vacant and not reoccupied except for a  
temporary period of no more than 31 days): \_\_\_\_\_ No of Units

3. The total number of completed Units in the Project is \_\_\_\_\_.

4. The total number in 2 is at least 40% of the total number in 3 above.

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\*\*\*\* A unit all of the occupants of which are full-time students does not qualify as a unit occupied by Qualifying Tenants, unless one or more of the occupants was entitled to file a joint tax return.

5. No Event of Default (as defined in the Land Use Restriction Agreement) has occurred and is subsisting under the Land Use Restriction Agreement, except as set forth in Schedule A attached hereto.

**MHL 2 PRAIRIE DISTRICT APARTMENTS –  
WABASH LP,**  
an Illinois limited partnership

By: MHL 2 Prairie District Apartments –  
Wabash LLC,  
an Illinois limited liability company,  
its General Partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[Scheule “A” referred to in this Certificate of Continuing Program  
Compliance unavailable at time of printing.]

*Exhibit "E".*  
(To Ordinance)

*Project Site.*

Legal Description:

Lots 11, 12, 13 and 14 in Block 7 in Assessor's Division of the southwest fractional quarter of Section 22, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Commonly Known As:

1801 South Wabash Avenue  
Chicago, Illinois 60616.

Property Index Numbers (PINs):

17-22-306-001-0000; and

17-22-306-002-0000.

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ISSUANCE OF MULTI-FAMILY HOUSING REVENUE BONDS AND  
OTHER FINANCIAL ASSISTANCE TO MHL 3 PRAIRIE DISTRICT  
APARTMENTS-MICHIGAN L.P. FOR ACQUISITION AND CONSTRUCTION  
OF LOW- AND MODERATE-INCOME HOUSING AT 1800 S. MICHIGAN AVE.

[O2024-0010987]

The Committee on Finance submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on Finance, to which was referred an ordinance concerning the issuance of financial assistance to MHL 3 Prairie District Apartment-Michigan L.P., for the MHL3 Prairie District Apartments project located at 1800 South Michigan Avenue in the 3<sup>rd</sup> Ward (O2024-0010987), in an amount not to exceed \$3,903,528 in multi-family program funds, having had the same under advisement, begs leave to report and recommend that Your Honorable Body *Pass* the proposed ordinance transmitted herewith.

This recommendation was concurred in by a voice vote of the members of the committee present, with no dissenting votes on September 16, 2024.

Respectfully submitted,

(Signed) PAT DOWELL,  
*Chair.*

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

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

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 Housing ("DOH"); and

WHEREAS, DOH has preliminarily reviewed and approved the making of a loan to MHL 3 Prairie District Apartments-Michigan L.P., an Illinois limited partnership (the "Borrower") of which MHL 3 Prairie District Apartments-Michigan GP-LLC, an Illinois limited

liability company, is the general partner, of which Mercy Housing Lakefront, an Illinois not-for-profit corporation, is the manager and a member, of which Mercy Housing, Inc., an Illinois not-for-profit corporation, is the sole member, in an amount not to exceed Three Million Nine Hundred Three Thousand Five Hundred Twenty-Eight and No/100 Dollars (\$3,903,528) (the "Loan"), to be funded from Multi-Family Program Funds pursuant to the terms and conditions set forth in Exhibit A attached hereto and made a part hereof; 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 Housing (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. To the extent that any ordinance, resolution, rule, order or provision of the Municipal Code, 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 4. This ordinance shall be effective as of the date of its passage and approval.

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

*Exhibit "A".*

Borrower: MHL 3 Prairie District Apartments-Michigan L.P., an Illinois limited partnership ("Borrower") and its general partner, MHL 3 Prairie District Apartments-Michigan GP-LLC, an Illinois limited liability company, is the general partner, of which Mercy Housing Lakefront, an Illinois not-for-profit corporation, is the manager and a member, of which Mercy Housing, Inc., an Illinois not-for-profit corporation, is the sole member.

**Project:** Acquisition and construction of a low-and moderate-income building located generally at 1800 South Michigan Avenue, Chicago, Illinois (the "Property") to contain approximately 50 affordable residential housing units (together with related common areas along with 14 parking spaces, the "Project").

**Loan:**

**Source:** Multi-Family Program Funds.

**Amount:** Not to exceed \$3,903,528.

**Term:** Not to exceed 33 years.

**Interest:** Zero percent per annum or another rate acceptable to the Authorized Officer.

**Security:** Non-recourse loan; junior mortgage on the Property ("City Mortgage").

**Additional Financing:**

1. **Senior Loan:**

**Amount:** \$22,000,000\*, or another amount acceptable to the Authorized Officer.

**Term:** 3 years, or another term acceptable to the Authorized Officer.

**Source:** CIBC Bank, USA, or another source acceptable to the Authorized Officer.

**Interest:** 30-day SOFR + 260 basis points, or another rate acceptable to the Authorized Officer.

**Security:** Mortgage on the Property senior to the lien of the City Mortgage.

2. **ComEd Loan:**

**Amount:** Approximately \$225,737 or such other amount acceptable to the Authorized Officer.

**Term:** 33 years or such other term that is acceptable to the Authorized Officer.

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\* To be repaid with a portion of the syndication of the low-income housing tax credit allocation by the City.

Source: ComEd grant to Mercy Housing Lakefront or another grantee acceptable to the Authorized Officer, which funds will then be loaned to Borrower.

Security: Mortgage on the Property junior to the lien of the City Mortgage.

3. Seller's Note:

Amount: Approximately \$2,220,000 or such other amount acceptable to the Authorized Officer.

Term: 33 years or such other term that is acceptable to the Authorized Officer.

Source: Seller financing from Mercy Housing Lakefront, or another entity approved by the Authorized Officer.

Security: Mortgage on the Property junior to the lien of the City Mortgage.

4. Sponsor Loan (CMF Funds):

Amount: Approximately \$999,000 or such other amount acceptable to the Authorized Officer.

Term: 33 years or such other term that is acceptable to the Authorized Officer.

Source: CMF funds from Mercy Housing Lakefront, or another entity approved by the Authorized Officer, which funds will then be loaned to Borrower.

Security: Mortgage on the Property junior to the lien of the City Mortgage.

5. Sponsor Loan (EDI Loans):

Amount: Approximately \$2,000,000 or such other amount acceptable to the Authorized Officer.

Term: 33 years or such other term that is acceptable to the Authorized Officer.

- Source: Economic Development Initiative Community Project Funding Grant (United States Department of Housing and Urban Development) to Mercy Housing Lakefront. or another entity approved by the Authorized Officer, which funds will then be loaned to Borrower.
- Security: Mortgage on the Property junior to the lien of the City Mortgage.
6. Amount: Approximately \$26,100,000, or such amount as may be acceptable to the Authorized Officer, all or a portion of which may be paid in on a delayed basis.
- Source: To be derived from the syndication of a low-income housing tax credit allocation by the City.

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FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT WITH CHICAGO PARK DISTRICT FOR PROVISION OF TAX INCREMENT FINANCING ASSISTANCE FUNDS FOR IMPROVEMENTS AT KELLS PARK.

[O2024-0010965]

The Committee on Finance submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on Finance, to which was referred an ordinance concerning the First Amendment to the Intergovernmental Agreement with the Chicago Park District for the provision of Tax Increment Financing (TIF) funds for improvements at Kells Park located at 714 and 724 North Kedzie Avenue in the 27<sup>th</sup> Ward (O2024-0010965), in an amount not to exceed \$17,000,000, having had the same under advisement, begs leave to report and recommend that Your Honorable Body *Pass* the proposed ordinance transmitted herewith.

This recommendation was concurred in by a voice vote of the members of the committee present, with no dissenting votes on September 16, 2024.

Respectfully submitted,

(Signed) PAT DOWELL,  
*Chair.*

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

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

The following is said ordinance as passed:

WHEREAS, The City of Chicago (the "City"), is a home rule unit of government under Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois, and as such may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, The Chicago Park District (the "Park District"), is an Illinois municipal corporation and a unit of local government under Article VII, Section 1 of the 1970 Constitution of the State of Illinois, and as such is authorized to exercise control over and supervise the operation of all parks within the corporate limits of the City; and

WHEREAS, 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 blight conditions and conservation factors that could lead to blight through the use of tax increment allocation financing for redevelopment projects; and

WHEREAS, In accordance with the provisions of the Act, and pursuant to ordinances adopted on February 27, 2002, and published in the *Journal of the Proceedings of the City Council of the City of Chicago* (the "*Journal*") (the "City Council") for such date at pages 79794 through 80025, and as subsequently amended, the City Council: (i) approved and adopted a redevelopment plan and project for a portion of the City known as the "Chicago/Central Park Redevelopment Project Area" (the "Area"); (ii) designated the Area as a "redevelopment project area"; and (iii) adopted tax increment allocation financing for the Area; and

WHEREAS, In accordance with the provisions of the Act, and pursuant to ordinances adopted on June 10, 1998, and published in the *Journal* for such date at pages 70367 to 70520, and as subsequently amended, the City Council: (i) approved and adopted a redevelopment plan and project for a portion of the City known as the "Kinzie Industrial Conservation Area Tax Increment Redevelopment Project Area" (the "Kinzie Redevelopment Area"); (ii) designated the Kinzie Redevelopment Area as a "redevelopment project area"; and (iii) adopted tax increment allocation financing for the Kinzie Redevelopment Area; and

WHEREAS, Under 65 ILCS 5/11-74.4-3(q)(7), such incremental ad valorem taxes which pursuant to the Act have been collected and are allocated to pay redevelopment project costs and obligations incurred in the payment thereof ("Increment") may be used to pay all or a portion of a taxing district's capital costs resulting from a redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the redevelopment plan and project, to the extent the municipality by written agreement accepts and approves such costs (Increment collected from the Area shall be known as the "Chicago/Central Park Increment" and Increment collected from the Kinzie Redevelopment Area shall be known as the "Kinzie Increment"); and

WHEREAS, Under 65 ILCS 5/11-74.4-4(q), if a redevelopment project area: (i) was established before November 1, 1999 and (ii) is located within a municipality with a population of more than 100,000, then a municipality may utilize revenues received under the Act from a different redevelopment project area, other than State of Illinois sales tax increment revenues, to pay for any eligible redevelopment project costs to the extent that the redevelopment project costs involve public property that is either contiguous to, or separated only by a public right of way from, the redevelopment project area from which the revenues are received; whether or not redevelopment project costs or the source of payment for the costs are specifically set forth in the redevelopment plan for the redevelopment project area; and

WHEREAS, In an ordinance adopted on March 15, 2023, and published at pages 60884 to 60888 of the *Journal* for such date, the City Council authorized the Department of Planning and Development of the City ("DPD") to use a portion of the Chicago/Central Park Increment in an amount not to exceed \$600,000 for the purpose of making certain improvements to an existing Park District park known as "Kells (George) Park" located at 3201 West Chicago Avenue, Chicago, Illinois (the "Original Property"), including the relocation of the existing playground, construction of a walking path and other site amenities to such lighting, drinking fountains and benches (the "Original Project") in the Area, and authorized the making of an intergovernmental agreement; and

WHEREAS, On April 21, 2023, the City and the Park District entered into an Intergovernmental Agreement (the "Original Agreement") whereby the City agreed to pay or reimburse the Park District for the Original Project; and

WHEREAS, The City owns three (3) parcels of real property and a vacated alley located at 714, 724 and 726 North Kedzie Avenue, Chicago, Illinois, and legally described in Exhibit A (the "City Property"); and

WHEREAS, The City Property is presently improved with a decommissioned firehouse and is adjacent to the Original Property.

WHEREAS, The City desires to convey the City Property for One Dollar (\$1.00) per parcel to the Park District to expand the Original Property; and

WHEREAS, The City is authorized to convey City-owned real estate to other municipalities in accordance with the provisions of the Local Government Property Transfer Act, 50 ILCS 605/0.01, et seq.; and

WHEREAS, The City Property and Original Property (collectively, the "New Park Property"), lie wholly within the boundaries of the Area; and

WHEREAS, The New Park Property is: (i) located within a municipality with a population of more than 100,000; and (ii) a public property that is contiguous to, or separated only by a public right-of-way from, the Kinzie Redevelopment Area; and

WHEREAS, DPD and the Park District have determined that it is in the best interests of both parties to expand the Original Project to include environmental investigation and remediation of the City Property, demolition of the existing decommissioned City firehouse on the City Property, and subsequent construction of a new fieldhouse and playground on the City Property (the "Project Expansions", and collectively with the Original Project, the "Amended Project"); and

WHEREAS, DPD desires to make available to the Park District a portion of the Chicago/Central Park Increment in an amount not to exceed a total of \$17,000,000 for the purpose of wholly or partially funding certain costs of the Amended Project (the "TIF-Funded Improvements") to the extent and in the manner provided in this ordinance and the First Amended and Restated Agreement (as hereinafter defined); and

WHEREAS, If the funds available to pay for any TIF-Funded Improvements from the Chicago/Central Park Increment are less than \$17,000,000, then DPD would like to have the option to make available to the Park District a portion of the Kinzie Increment in an amount not to exceed the total of \$17,000,000 minus any funds made available to the Park District from the Chicago/Central Park Increment in connection with the TIF-Funded Improvements; and

WHEREAS, The City and the Park District desire to enter into an amendment to and restatement of the Original Agreement in substantially the form attached as Exhibit B (the "First Amended and Restated Agreement") whereby the City shall convey the City Property to the Park District and increase the amount of assistance to a total of \$17,000,000 to pay or reimburse the Park District for the TIF-Funded Improvements; and

WHEREAS, The City is authorized under its home rule powers to regulate the use and development of land; and

WHEREAS, On January 24, 2024, the Park District's Board of Commissioners (the "Board") adopted Resolution Number 24-1012-0124 authorizing the execution of the First Amended and Restated Agreement; and on June 12, 2024, adopted Resolution Number 24-1099-0612 approving the acquisition of the City Property; and

WHEREAS, On July 9, 2024, the Community Development Commission, by Resolution Number 23-CDC-30, recommended the transfer of the City Property to the Park District; and

WHEREAS, On July 18, 2024, the Plan Commission of the City, by Resolution Number 24-037-21, recommended the sale of the City Property to the Park District; and

WHEREAS, DPD has recommended that the City Council: (i) approve the use of the Chicago/Central Park Increment and Kinzie Increment for the purposes set forth in this ordinance; (ii) authorize the conveyance of the City Property by the City to the Park District; and (iii) authorize the City to enter into the First Amended and Restated Agreement; 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. The Commissioner of DPD (the "Commissioner") or a designee of the Commissioner, is each hereby authorized, with the approval of the City's Corporation Counsel as to form and legality, to negotiate, execute and deliver such documents as may be necessary or appropriate to carry out and comply with the provisions of this ordinance, with such changes, deletions and insertions as shall be approved by the Commissioner or the Commissioner's designee. Such documents may contain terms and provisions that the Commissioner or the Commissioner's designee deems appropriate, including indemnification, releases, affidavits and other documents as may be reasonably necessary to remove exceptions from title with respect to the City Property or otherwise may be reasonably necessary or appropriate to consummate the transaction contemplated hereby.

SECTION 3. Subject to the terms and conditions of the First Amended and Restated Agreement, the City is hereby authorized to sell and convey the City Property for the sum of One Dollar (\$1.00) per parcel. The Mayor or his proxy is authorized to execute, and the City Clerk or the Deputy City Clerk is authorized to attest, a quitclaim deed or deeds conveying the City Property to the Park District.

SECTION 4. 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 other provisions of this ordinance.

SECTION 5. This ordinance shall take effect as of the date of its passage and approval.

Exhibits "A" and "B" referred to in this ordinance read as follows:

*Exhibit "A".*  
(To Ordinance)

*Legal Description.*

(Subject To Final Survey And Title Commitment)

Parcels 1 and 2:

Lots 42 and 43 in Armington's Subdivision of the northeast quarter of the northeast quarter of the northeast quarter of Section 11, Township 39 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

Commonly Known As:

724 North Kedzie Avenue  
Chicago, Illinois 06012.

Property Index Numbers (PINs):

16-11-207-010-0000 (Lot 43); and  
16-11-207-011-0000 (Lot 42).

Parcel 3:

Lots 37 to 41, both inclusive, in Armington's Subdivision of the northeast quarter of the northeast quarter of the northeast quarter of Section 11, Township 39 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

Commonly Known As:

714 North Kedzie Avenue  
Chicago, Illinois 60612.

Property Index Number (PIN):

16-11-207-012-0000.

Vacated Alley:

That part of the east-west 16-foot-wide vacated alley, being the south 16 feet of Lot 44 in Armington's Subdivision, in Book 9, page 95, of the northeast quarter of the northeast quarter of the northeast quarter of Section 11, Township 39 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois, containing 2003 square feet or 0.046 acres, more or less.

*Exhibit "B".*  
(To Ordinance)

*First Amended And Restated Agreement With Chicago Park District.*

This First Amended and Restated Agreement (as amended, restated, supplemented or otherwise modified from time to time, the "**First Amended Agreement**") is made on or as of the \_\_\_\_ day of \_\_\_\_\_, 2024 (the "**Closing Date**"), under authority granted by Article VII, Section 10 of the 1970 Constitution of the State of Illinois, by and between the City of Chicago (the "**City**"), an Illinois municipal corporation, by and through its Department of Planning and Development or any successor thereto ("**DPD**"); and the Chicago Park District (the "**Park District**"), an Illinois municipal corporation. The Park District and the City are sometimes referred to herein as the "**Parties**."

**RECITALS**

A. The City is a home rule unit of government under Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois, and as such may exercise any power and perform any function pertaining to its government and affairs.

B. The Park District is a unit of local government under Article VII, Section 1 of the 1970 Constitution of the State of Illinois, and as such, has the authority to exercise control over and supervise the operation of parks within the corporate limits of the City.

C. The Park District has undertaken to make certain park improvements at Kells (George) Park, which is generally located at 3201 West Chicago Avenue, Chicago, Illinois 60624 (the "**Original Property**").

D. The Park District intends to make certain improvements to the **New Park Property** (as hereinafter defined) as described in **Exhibit A** (the "**Project**").

F. 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 blight conditions and conservation factors that could lead to blight through the use of tax increment allocation financing for redevelopment projects.

G. In accordance with the provisions of the Act, and pursuant to ordinances adopted on February 27, 2002, and published in the Journal of the Proceedings (the "**Journal**") of the City Council of the City (the "**City Council**") for such date at pages 79794 through 80025, and as subsequently amended, the City Council: (i) approved and adopted a redevelopment plan and project for a portion of the City known as the "Chicago/Central Park Redevelopment Project Area" (the "**Area**"); (ii) designated the Area as a "redevelopment project area"; and (iii) adopted tax increment allocation financing for the Area.

H. In accordance with the provisions of the Act, and pursuant to ordinances adopted on June 10, 1998, and published in the Journal for such date at pages 70367 to 70520, and as

subsequently amended, the City Council: (i) approved and adopted a redevelopment plan and project for a portion of the City known as the "Kinzie Industrial Conservation Area Tax Increment Redevelopment Project Area" (the "**Kinzie Redevelopment Area**"); (ii) designated the Kinzie Redevelopment Area as a "redevelopment project area"; and (iii) adopted tax increment allocation financing for the Kinzie Redevelopment Area.

I. Under 65 ILCS 5/11-74.4-3(q)(7), such incremental ad valorem taxes which pursuant to the Act have been collected and are allocated to pay redevelopment project costs and obligations incurred in the payment thereof ("Increment") may be used to pay all or a portion of a taxing district's capital costs resulting from a redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the redevelopment plan and project, to the extent the municipality by written agreement accepts and approves such costs (Increment collected from the Area shall be known as the "**Area Increment**" and Increment collected from the Kinzie Redevelopment Area shall be known as the "**Kinzie Increment**").

J. Under 65 ILCS 5/11-74.4-4(q), if a redevelopment project area (i) was established before November 1, 1999 and (ii) is located within a municipality with a population of more than 100,000, then a municipality may utilize revenues received under the Act from a different redevelopment project area, other than State of Illinois sales tax increment revenues, to pay for any eligible redevelopment project costs to the extent that the redevelopment project costs involve public property that is either contiguous to, or separated only by a public right of way from, the redevelopment project area from which the revenues are received; whether or not redevelopment project costs or the source of payment for the costs are specifically set forth in the redevelopment plan for the redevelopment project area.

K. The Park District is a taxing district under the Act.

L. DPD wishes to make available to the Park District a portion of the Area Increment and/or Kinzie Increment in an amount not to exceed an aggregate total amount of \$17,000,000 (the "**TIF Assistance**"), subject to Section 2.6, for the purpose of funding the Project (the "**TIF-Funded Improvements**") in the Area to the extent and in the manner provided in this First Amended Agreement.

M. The City owns three (3) parcels of real property and a vacated alley located at 714, 724 and 726 North Kedzie Avenue, Chicago, Illinois, and legally described in **Exhibit D** (the "**City Property**").

N. The City desires to convey the City Property to the Park District to expand the Original Property.

O. The City is authorized to convey City-owned real estate to other municipalities in accordance with the provisions of the Local Government Property Transfer Act, 50 ILCS 605/0.01 *et seq.*

P. The City Property and Original Property (collectively, the "**New Park Property**"), lie wholly within the boundaries of the Area.

Q. The New Park Property is: (i) located within a municipality with a population of more than 100,000 and (ii) a public property that is contiguous to, or separated only by a public right-of-way from, the Kinzie Redevelopment Area.

R. In accordance with the Act, the TIF-Funded Improvements shall include such of the Park District's capital costs necessarily incurred or to be incurred in furtherance of the objectives of the Plan, and the City has found that the TIF-Funded Improvements consist of the cost of the Park District's capital improvements that are necessary and directly result from the redevelopment project constituting the Project and, therefore, constitute "taxing districts' capital costs" as defined in Section 5/11-74.4-3(u) of the Act.

S. The City Property is presently improved with a decommissioned firehouse and is adjacent to the Original Property.

T. The City has reviewed a Phase I ESA (as hereafter defined) for 724-726 N Kedzie Avenue dated January 2020 which did not identify recognized environmental conditions, however the City identified environmental concerns to investigate.

U. The City procured a Phase II ESA (as hereafter defined) for 724-726 N Kedzie dated November 18, 2020 which identified contamination above residential remediation objectives as determined by Title 35 of the Illinois Administrative Code Part 742.

V. The Phase II ESA identified contamination above residential remediation objectives as determined by Title 35 of the Illinois Administrative Code Part 742.

W. The City procured a Phase I ESA for 714 N Kedzie Ave dated December 2021 which identified recognized environmental conditions.

X. The City procured a Hazardous Building Materials Survey (as hereafter defined) of 714 N Kedzie Ave on January 19, 2022 and the survey identified hazardous building and regulated materials in the building.

Y. The City and the Park District wish to enter into this First Amended Agreement whereby the Park District shall undertake the Project and the City shall reimburse the Park District for the TIF-Funded Improvements made pursuant to the Project.

Z. On January 24, 2024, the Park District's Board of Commissioners (the "**Board**") adopted Resolution No. 24-1012-0124 authorizing the execution of the First Amendment; and on June 12, 2024, adopted Resolution No. 24-1099-0612 approving the acquisition of the City Property.

AA. On July 9, 2024, the Community Development Commission, by Resolution No. 23-CDC-30, recommended the transfer of the City Property to the Park District.

BB. On July 18, 2024, the Plan Commission of the City, by Resolution No. 24-037-21, recommended the sale of the City Property to the Park District.

CC. On March 15, 2023, the City Council adopted an ordinance published in the Journal at pages 60883 through 60888 for said date (the "**Original Authorizing Ordinance**"), among other things, authorizing the execution of an agreement between the Parties for the use of tax increment financing for improvements on the Original Property (the "**Original Agreement**").

DD. On April 21, 2023, the Parties entered into the Original Agreement.

EE. On \_\_\_\_\_, 2024, the City Council adopted an ordinance published in the Journal at pages \_\_\_\_\_ through \_\_\_\_\_ for said date (the "**Amending Ordinance**"), among other things, authorizing the execution of a first amended and restated agreement between the Parties for the use of TIF Assistance for the Project.

FF. Pursuant to the Amending Ordinance, the Parties have executed this First Amended Agreement, which supersedes the Original Agreement.

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

## **TERMS AND CONDITIONS**

### **SECTION 1. THE PROJECT**

1.1. No later than 36 months from \_\_\_\_\_, 20\_\_ (the "**Effective Date**"), or later as the Commissioner of DPD (the "**Commissioner**") may agree in writing, the Park District shall let one or more contracts for the Project in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, codes and executive orders, all as may be in effect from time to time, pertaining to or affecting the Project or the Park District as related thereto.

1.2. The plans and specifications for the Project (the "**Plans and Specifications**") shall at a minimum meet or shall have met the general requirements set forth in **Exhibit A** hereof and comply with plans and specifications which the Park District will have provided to, and be approved by, DPD prior to the disbursement of the TIF Assistance. No material deviation from the Plans and Specifications may be made without the prior written approval of the City. The Park District shall comply with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, codes and executive orders, all as may be in effect from time to time, pertaining to or affecting the Project or the Park District as related thereto.

1.3. The Park District shall also provide the City with copies of all governmental licenses and permits required to construct the Project and to use, occupy and operate the New Park Property as a public park from all appropriate governmental authorities, including evidence that the New Park Property is appropriately zoned to be used, occupied, and operated as a public park.

1.4. The Park District shall include a certification of compliance with the requirements of **Sections 1.1, 1.2, and 1.3** hereof with the request for the TIF Assistance hereunder at the time the Project is completed and prior to any disbursement of the TIF Assistance. The City shall be

entitled to rely on this certification without further inquiry. Upon the City's request, the Park District shall provide evidence satisfactory to the City of such compliance.

1.5. In all contracts relating to the Project, and until the City Property is conveyed to the Park District, the Park District agrees to require its contractors to name the City as an additional insured on all insurance policies and to require its contractors to indemnify the City from all claims, damages, demands, losses, suits, actions, judgments and expenses, including but not limited to attorney's fees, arising out of or resulting from the construction for the Project by its contractors or contractors' suppliers, employees or agents.

1.6. The Park District agrees to carefully inspect the New Park Property prior to commencement of any activity on the New Park Property to ensure that such activity shall not damage surrounding property, structures, utility lines or any subsurface lines or cables. The Park District shall be solely responsible for the safety and protection of the public. The City reserves the right to inspect the work being done on the New Park Property. The Park District agrees to keep the New Park Property free from all liens and encumbrances arising out of any work performed, materials supplied or obligations incurred by or for the Park District.

1.7. The City has provided the Park District an initial title commitment for the City Property. The Park District shall be responsible for obtaining, at its own expense, any updated title commitment, title policy or survey with respect to the City Property that the Park District deems necessary.

1.8. Subject to the terms and conditions set forth herein, the City hereby grants to the Park District a right of entry upon the City Property for the sole purposes of: (1) environmental investigation and remediation; (2) demolition of the existing decommissioned City firehouse; and (3) construction of a new fieldhouse and playground. The right of entry granted hereunder extends to the Park District and its agents, employees, contractors, subcontractors and consultants (collectively, "Agents"). The Park District shall be responsible for its Agents. Prior to entry, the Park District must provide prior notice to the City of the exact nature of the activities to be conducted, expected dates of entry, and expected personnel conducting the activities if not already included herein. The Park District and its Agents must abide by all rules and regulations set forth by the City.

1.9. At the written request of the Park District, the City shall convey the City Property for One Dollar (\$1.00) per parcel to the Park District by quitclaim deed. Without limiting the generality of the quitclaim nature of the City's deed, all such conveyances and title shall, in addition to the provisions of this First Amended Agreement, be subject to the express covenant that the City Property is used by the Park District as a public park. The City, acting through the Commissioner, shall have authority to release this covenant upon the request of the Park District. If the Park District uses, or permits the use, of the City Property for any other purpose without first obtaining a release of this covenant, the City may re-enter and take possession of the City Property, terminate the estate conveyed to the Park District, and revert title to the City Property in the City.

1.10 It shall be the sole responsibility of the Park District to investigate and determine the soil and environmental condition of the City Property. If the soil conditions are not in all respects entirely suitable for the use or uses to which the City Property is intended to be utilized for under

this First Amended Agreement, then it shall be the sole responsibility and obligation of the Park District to take such action as may be necessary to place the soil and environmental condition of the City Property in a condition entirely suitable for the intended uses under this First Amended Agreement. The City shall reimburse the Park District for the environmental investigation and remediation costs for the Project.

## **SECTION 2. FUNDING**

2.1. The City shall, subject to the Park District's satisfaction of the conditions precedent for disbursement described in this Section 2 and such other conditions contained in this First Amended Agreement, disburse the TIF Assistance to the Park District.

2.2. The City shall establish a special account within the Chicago/Central Park Redevelopment Project Area Special Tax Allocation Fund; such special account shall be known as the "**Kells (George) Park Account**." Disbursement of TIF Assistance will be subject to the availability of Area Increment in the Kells (George) Park Account, subject to all restrictions on and obligations of the City contained in all TIF Ordinances or relating to the Area Increment and all agreements and other documents entered into by the City pursuant thereto.

2.2.1 If the funds available to pay for any TIF-Funded Improvements from the Area Increment are less than \$17,000,000, then DPD shall make available to the Park District a portion of the Kinzie Increment in an amount not to exceed the total of \$17,000,000 minus any funds made available to the Park District from the Area Increment in connection with the TIF-Funded Improvements, subject to the availability of Kinzie Increment, all restrictions on and obligations of the City contained in all TIF Ordinances or relating to the Kinzie Increment and all agreements and other documents entered into by the City pursuant thereto.

2.3. Within 15 days after the Effective Date or such longer period of time as may be agreed to by the Commissioner, but in no event later than 90 days after the execution of this First Amended Agreement (the "**Satisfaction Period**"), the Park District must satisfy to the reasonable satisfaction of the Commissioner, the following conditions precedent for City's disbursement of the TIF Assistance to the Park District:

2.3.1. The Park District has satisfied the conditions stated in this Section 2.3 within the Satisfaction Period. If the Park District is unable to satisfy said conditions, either Party may terminate this First Amended Agreement by providing written notice to the other Party;

2.3.2. The Park District may request payment from the City by submitting a Certificate of Expenditure in the form of **Exhibit C** hereto ("**Certificate of Expenditure**"), which may be processed and executed periodically. The City shall not execute and approve Certificates of Expenditure in the aggregate in excess of the actual costs of the Project, and in no event in an amount greater than the TIF Assistance. Prior to each execution of a Certificate of Expenditure by the City, the Park District shall submit documentation regarding the applicable expenditures to DPD. Delivery by the Park District to the City of any request for execution by the City of a Certificate of Expenditure hereunder shall, in addition to the items therein expressly set forth, constitute a certification to the City, as of the date of such request for execution of a Certificate of Expenditure, that:

2.4.1. The total amount of the request for the Certificate of Expenditure represents the actual amount payable to (or paid to) the general contractor, subcontractors, and other parties who have performed work on or otherwise provided goods or services in connection with the Project, and/or their payees;

2.4.2. All amounts shown as previous payments on the current request for a Certificate of Expenditure have been paid to the parties entitled to such payment;

2.4.3 The Park District has approved all work and materials for the current request for a Certificate of Expenditure, and such work and materials conform to the Plans and Specifications; and

2.4.4. The Park District is in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, codes and executive orders, all as may be in effect from time to time, pertaining to or affecting the Project or the Park District as related thereto.

2.5. The City shall have the right, in its discretion, to require the Park District to submit further documentation as the City may require in order to verify that the matters certified to in Section 2.4 are true and correct, and any execution and approval of a Certificate of Expenditure 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 Park District.

2.6. The current estimated cost of the entire Project is \$17,000,000. The Park District has delivered to the Commissioner a budget for the Project attached as **Exhibit B**. The Park District certifies that it has identified sources of funds, including the TIF Assistance, sufficient to complete its budgeted portion of the Project. The Park District agrees that the City will only contribute TIF Assistance to reimburse the Park District for the costs of the Project and that all costs of completing the Project over the TIF Assistance shall be the sole responsibility of the Park District. If the Park District at any point does not have sufficient funds to complete the Project, the Park District shall so notify the City immediately in writing and cease all work on the Project until the City and the Park District agree on how to proceed; the Park District may narrow the scope of the Project (the "**Revised Project**") as agreed to by the City prior to the restart of any work in order to complete the Revised Project with the approved funds. The City has the right, at its election, to withhold and refuse all reimbursement in the event that the Park District fails to so notify the City and/or the Park District and the City fail to reach agreement on a Revised Project as described above.

2.7. **Exhibit B** contains a preliminary list of capital improvements, equipment costs, general construction costs, and other costs, if any, recognized by the City as costs eligible to be paid for out of the TIF Assistance. To the extent the TIF-Funded Improvements are included as taxing district capital costs under the Act, the Park District acknowledges that the TIF-Funded Improvements are costs for capital improvements and the City acknowledges it has determined that these TIF-Funded Improvements are necessary and directly result from the Plan. Prior to the expenditure of TIF Assistance funds on the Project, the Commissioner, based upon the

Project budget, may make such modifications to **Exhibit C** as he or she wishes in his or her discretion to account for all of the TIF Assistance funds to be expended under this First Amended Agreement; provided, however, that all TIF-Funded Improvements shall (i) qualify as redevelopment project costs under the Act, (ii) qualify as eligible costs under the Plan; and (iii) be improvements that the Commissioner has agreed to pay for out of TIF Assistance funds, subject to the terms of this First Amended Agreement.

2.8. The Park District hereby acknowledges and agrees that the City's obligations hereunder with respect to the TIF Assistance are subject in every respect to the availability of funds as described in and limited by this Section 2. If no funds or insufficient funds are appropriated and budgeted in any fiscal period of the City for disbursements of the TIF Assistance, then the City will notify the Park District in writing of that occurrence, and the City may terminate this First Amended Agreement on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for disbursement under this First Amended Agreement are exhausted.

2.9. If the aggregate cost of the Project is less than the amount of the TIF Assistance contemplated by this First Amended Agreement, the Park District shall have no claim to the difference between the amount of the TIF Assistance contemplated by this First Amended Agreement and the amount of the TIF Assistance actually paid by the City to the Park District and expended by the Park District on the Project.

### **SECTION 3. TERM**

The term of this First Amended Agreement shall commence on the Closing Date and shall expire on the date on which the Area is no longer in effect, or on the date of termination of this First Amended Agreement according to its terms, whichever occurs first.

### **SECTION 4. ENVIRONMENTAL MATTERS**

4.1 The Park District, or its Agent, shall enroll the City Property in the Illinois Environmental Protection Agency's ("IEPA") Site Remediation Program, complete any additional environmental investigation as needed, follow all IEPA reporting requirements, remediate the City Property as required by the IEPA, and obtain a Comprehensive Residential No Further Remediation Letter (the "**NFR Letter**"). The NFR Letter shall be recorded with the Cook County Clerk's Office.

4.2 The Park District shall remove and close any underground storage tanks ("**USTs**") identified in accordance with applicable regulations including Title 41 of IAC Part 175 and any identified leaking USTs must be properly addressed in accordance with 35 IAC Part 734.

4.3 The Park District, or its Agent, shall perform all required abatement, disposal and provide worker safety in accordance with all City, State, and Federal Law prior to building rehabilitation and/or demolition.

4.4 In addition, the City Property shall be conveyed to the Park District in its "as is, where is" condition, with no warranty, express or implied, by the City as to the condition of the soil, its geology, or the presence of known or unknown faults. It shall be the responsibility of the Park

District to further investigate and determine the soil and environmental condition of the City Property, including obtaining Phase I ESA if applicable, supplemental Phase II ESAs for the City Property and (b) to determine environmental remediation action plan with respect to the City Property or the Project, and any such work that the Park District determines is required shall be performed with the Parties' understanding and agreement that the City's financial obligation shall be limited to an amount not to exceed the TIF Assistance which is provided solely for the items set forth in **Exhibit B**. If the soil conditions are not in all respects entirely suitable for the use or uses to which the Property is intended to be utilized for under this First Amended Agreement, then it shall be the sole responsibility and obligation of the Park District to take such action as may be necessary to place the soil and environmental condition of the City Property in a condition entirely suitable for the intended uses under this First Amended Agreement. After the City's conveyance of the City Property to the Park District, the Park District shall have no recourse whatsoever against the City under any Environmental Laws or any other laws, rules or regulations for the environmental, soil or other condition of the City Property.

For purposes of the foregoing and in the Recitals:

"Environmental Laws" shall mean any Federal, state, or local law, statute, ordinance, code, rule, permit, plan, regulation, license, authorization, order, or injunction which pertains to health, safety, any Hazardous Substance or Other Regulated Material, or the environment (including, but not limited to, ground, air, water or noise pollution or contamination, and underground or above-ground tanks) and shall include, without limitation, the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 *et seq.*; the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*; the Hazardous Material Transportation Act, 49 U.S.C. § 1801 *et seq.*; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 *et seq.*, as amended by the Hazardous and Solid Waste Amendments of 1984; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 *et seq.* ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"); the Occupational Safety and Health Act, 29 U.S.C. § 651 *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*; the Clean Air Act, 42 U.S.C. § 7401 *et seq.*; the Illinois Environmental Protection Act, 415 ILCS 5/1 *et seq.*; the Gasoline Storage Act, 430 ILCS 15/0.01 *et seq.*; the Sewage and Waste Control Ordinance of the Metropolitan Water Reclamation District of Greater Chicago ("MWRD"); the Municipal Code of the City of Chicago; and any other local, state, or federal environmental statutes, and all rules, regulations, orders, and decrees now or hereafter promulgated under any of the foregoing, as any of the foregoing now exist or may be changed or amended or come into effect in the future.

"Phase I ESA" shall mean a Phase I environmental site assessment of the City Property in accordance with ASTM E-1527-21 (as most recently updated at the time of assessment).

"Phase II ESA" shall mean a Phase II environmental site assessment of the City Property in accordance with ASTM E-1903-19 (as most recently updated at the time of assessment).

"Hazardous Building Material Survey" shall include (but is not limited to) asbestos and lead-based paint survey, visually inspecting the Site to determine the presence and location of polychlorinated-biphenyl (PCB)-containing equipment and materials (such as lighting ballasts, switchgears, transformers, and hydraulic fluids), mercury-containing equipment and materials

(mercury lamps, thermostats, switches, thermometers, regulators, and gauges), radioactive material-containing equipment and/or waste, medical wastes (such as biological or infectious wastes, hazardous chemicals, and/or wastes), refrigerants such as chlorofluorocarbons (CFCs), large appliances or equipment, mold, or any other materials that may require special handling or disposal during or after demolition.

## **SECTION 5. INSURANCE**

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

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

5.1.2. Commercial General Liability (Primary and Umbrella). Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages shall include the following: All premises and operations, products/completed operations, 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.

5.1.3. Automobile Liability (Primary and Umbrella). When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Park District shall provide or cause to be provided, Automobile Liability Insurance with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage.

5.1.4. Professional Liability. When any architects, engineers or professional consultants perform work in connection with this First Amended Agreement, the Park District shall cause to be provided, Professional Liability Insurance covering acts, errors, or omissions shall be maintained with limits of not less than \$1,000,000.

5.1.5. Self-Insurance. To the extent permitted by applicable Law, the Park District may self-insure for the insurance requirements specified above, it being expressly understood and agreed that, if the Park District does self-insure for any such insurance requirements, the Park District must bear all risk of loss for any loss which would otherwise be covered by insurance policies, and the self-insurance program must comply with at least such insurance requirements as stipulated above.

5.2. The Park District will furnish the City at the address stated in Section 8.13, original Certificates of Insurance evidencing the required coverage to be in force on the Effective Date, and renewal Certificates of Insurance, promptly as any requisite insurance is renewed. The Park District shall submit evidence of insurance on the City's Insurance Certificate Form or equivalent

prior to the Effective Date. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in this First Amended Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all First Amended Agreement requirements. The failure of the City to obtain certificates or other insurance evidence shall not be deemed to be a waiver by the City.

5.3. The Park District shall advise all insurers of the provisions of this First Amended Agreement regarding insurance. Non-conforming insurance shall not relieve the Park District of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of this First Amended Agreement, and the City retains the right to stop work until proper evidence of insurance is provided, or this First Amended Agreement may be terminated.

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

5.5. Any and all deductibles or self-insured retentions on referenced insurance coverages shall be borne by the Park District and its contractors.

5.6. The Park District agrees that insurers shall waive their rights of subrogation against the City, its employees, elected officials, agents, or representatives.

5.7. The Park District expressly understands and agrees that any coverage and limits furnished by the Park District shall in no way limit the Park District's liabilities and responsibilities specified by this First Amended Agreement or by law.

5.8. The Park District expressly understands and agrees that any insurance or self-insurance programs maintained by the City shall not contribute with insurance provided by the Park District under this First Amended Agreement.

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

5.10. The Park District shall require all subcontractors to provide the insurance required herein and insurance customarily required by the Park District, or the Park District may provide the coverages for subcontractors. All subcontractors shall be subject to the same insurance requirements of the Park District unless otherwise specified herein. In all contracts relating to the Project, the Park District agrees to require the contractor to name the City as an additional insured on insurance coverages and to require the contractor to indemnify the City from all claims, damages, demands, losses, suits, actions, judgments and expenses including but not limited to attorney's fees arising out of or resulting from work on the Project by the contractor or contractor's suppliers, employees, or agents.

5.11. The City's Risk Management Department maintains the right to modify, delete, alter or change these requirements.

## **SECTION 6. INDEMNITY / NO PERSONAL LIABILITY**

6.1. The Park District agrees to indemnify and hold the City, its officers and employees, harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses, including, without limitation, reasonable attorney's fees and court costs suffered or incurred by the City arising from or in connection with (i) the Park District's failure to comply with any of the terms, covenants and conditions contained in this First Amended Agreement; or (ii) the Park District's or any contractor's failure to pay general contractors, subcontractors or materialmen in connection with the Project. The defense and indemnification obligations in this **Section 6.1** shall survive any termination or expiration of this First Amended Agreement.

6.2. No elected or appointed official or member or employee or agent of the City or the Park District shall be individually or personally liable in connection with this First Amended Agreement.

## **SECTION 7. DEFAULT**

7.1. If the Park District, without the City's written consent, fails to complete the Project within 36 months after the date of execution of this First Amended Agreement, then the City may terminate this First Amended Agreement by providing written notice to the Park District.

7.2. In the event the Park District fails to perform, keep or observe any of its covenants, conditions, promises, agreements or obligations under this First Amended Agreement not identified in **Section 7.1** and such default is not cured as described in **Section 7.3** hereof, the City may terminate this First Amended Agreement.

7.3. Prior to termination, the City shall give its notice of intent to terminate 30 days prior to termination at the address specified in **Section 8.13** hereof and shall state the nature of the default. In the event the Park District does not cure such default within the 30-day notice period, such termination shall become effective at the end of such period; provided, however, with respect to those defaults which are not capable of being cured within such 30-day period, the Park District shall not be deemed to have committed such default and no termination shall occur if the Park District has commenced to cure the alleged default within such 30-day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

7.4. The City may, in any court of competent jurisdiction, by any proceeding at law or in equity, secure the specific performance of the agreements contained herein, or may be awarded damages for failure of performance, or both.

## **SECTION 8. GENERAL PROVISIONS**

8.1. **Authority.** Execution of this First Amended Agreement by the City is authorized by the Authorizing Ordinance. Execution of this First Amended Agreement by the Park District is authorized by the Park District Ordinance. The Parties represent and warrant to each other that they have the authority to enter into this First Amended Agreement and perform their obligations hereunder.

8.2. Assignment. This First Amended Agreement, or any portion thereof, shall not be assigned by either Party without the prior written consent of the other.

8.3. Compliance with Laws. The Parties agree to comply with all federal, state and local laws, statutes, ordinances, rules, regulations, codes and executive orders relating to this First Amended Agreement.

8.4. Consents. Whenever the consent or approval of one or both Parties to this First Amended Agreement is required hereunder, such consent or approval will not be unreasonably withheld.

8.5. Construction of Words. As used in this First Amended Agreement, the singular of any word shall include the plural, and vice versa. Masculine, feminine and neuter pronouns shall be fully interchangeable, where the context so requires.

8.6. Counterparts. This First Amended Agreement may be executed in several counterparts and by a different Party in separate counterparts, with the same effect as if all Parties had signed the same document. All such counterparts shall be deemed an original, shall be construed together and shall constitute one and the same instrument.

8.7. Further Assurance. The Parties shall perform such acts, execute and deliver such instruments and documents, and do all such other things as may be reasonably necessary to accomplish the transactions contemplated in this First Amended Agreement.

8.8. Governing Law and Venue. This First Amended Agreement will be governed by and construed in accordance with the internal laws of the State of Illinois, without regard to the principles of conflicts of law thereof. If there is a lawsuit under this First Amended Agreement, each Party hereto agrees to submit to the jurisdiction of the courts of Cook County, the State of Illinois.

8.9. Integration. This First Amended Agreement constitutes the entire agreement between the Parties, merges all discussions between them and supersedes and replaces any and every other prior or contemporaneous agreement, negotiation, understanding, commitments and writing with respect to such subject matter hereof.

8.10. Parties' Interest/No Third Party Beneficiaries. This First Amended Agreement shall be binding upon the Parties and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of the Parties, and their respective successors and permitted assigns (as provided herein). This First Amended Agreement shall not run to the benefit of, or be enforceable by, any person or entity other than a Party and its successors and permitted assigns. This First Amended Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right. Nothing contained in this First Amended Agreement, nor any act of the Parties, shall be deemed or construed by any of the Parties hereto or by third parties, to create any relationship of third-party beneficiary, principal, agent, limited or general partnership, joint venture, or any association or relationship involving any of the Parties.

8.11. Modification or Amendment. This First Amended Agreement may not be altered, modified or amended except by a written instrument signed by both Parties.

8.12. No Implied Waivers. No waiver by either Party of any breach of any provision of this First Amended Agreement will be a waiver of any continuing or succeeding breach of the breached provision, a waiver of the breached provision itself, or a waiver of any right, power or remedy under this First Amended Agreement. No notice to, or demand on, either Party in any case will, of itself, entitle that Party to any further notice or demand in similar or other circumstances.

8.13. Notices. 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) facsimile (fax); (c) overnight courier; or (d) registered or certified first class mail, return receipt requested.

To the City:           City of Chicago  
Department of Planning and Development  
Attention: Commissioner  
City Hall, Room 1000  
121 N. LaSalle Street  
Chicago, Illinois 60602

With copies to:       City of Chicago  
Department of Law  
Attention: Finance and Economic Development Division  
City Hall, Room 600  
121 N. LaSalle Street  
Chicago, Illinois 60602

To the Park District: Chicago Park District  
Attention: General Superintendent  
4830 S. Western Ave.  
Chicago, Illinois 60609

With copies to:       Chicago Park District  
General Counsel  
4830 S. Western Ave.  
Chicago, Illinois 60609

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

8.14. 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.

8.15. Representatives. Immediately upon execution of this First Amended Agreement, the following individuals will represent the Parties as a primary contact in all matters under this First Amended Agreement.

For the City: Tim Jeffries  
City of Chicago  
Department of Planning and Development  
City Hall, Room 1000  
121 N. LaSalle Street  
Chicago, Illinois 60602

For the Park District: Heather Gleason  
Chicago Park District  
Director of Planning and Construction  
4830 S. Western Ave.  
Chicago, Illinois 60609

Each Party agrees to promptly notify the other Party of any change in its designated representative, which notice shall include the name, address, telephone number and fax number of the representative for such Party for the purpose hereof.

8.16. Severability. If any provision of this First Amended Agreement, or the application thereof, to any person, place or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this First Amended Agreement and such provisions as applied to other persons, places and circumstances shall remain in full force and effect only if, after excluding the portion deemed to be unenforceable, the remaining terms shall provide for the consummation of the transactions contemplated hereby in substantially the same manner as originally set forth herein.

8.17. Survival of Agreements. Except as otherwise contemplated by this First Amended Agreement, all covenants and agreements of the Parties contained in this First Amended Agreement will survive the consummation of the transactions contemplated hereby.

8.18. Titles and Headings. Titles and headings to paragraphs contained in this First Amended Agreement are for convenience only and are not intended to limit, vary, define or expand the content of this First Amended Agreement.

8.19. Time. Time is of the essence in the performance of this First Amended Agreement

**IN WITNESS WHEREOF**, each of the parties has caused this First Amended Agreement to be executed and delivered as of the date first above written.

**CITY OF CHICAGO**, a municipal corporation, by and through its Department of Planning and Development

By: \_\_\_\_\_  
Cierce Boatright  
Commissioner

**CHICAGO PARK DISTRICT**, a body politic and corporate of the State of Illinois

By: \_\_\_\_\_  
Rosa Escareño  
General Superintendent and CEO

ATTEST

By: \_\_\_\_\_  
Sarah Gelder  
Secretary

[(Sub)Exhibit "D" referred to in this First Amended and Restated Agreement with Chicago Park District constitutes Exhibit "A" to ordinance and printed on page 16009 of this *Journal*.]

(Sub)Exhibits "A", "B" and "C" referred to in this First Amended and Restated Agreement with Chicago Park District read as follows:

*(Sub)Exhibit "A".*

(To First Amended And Restated Agreement With Chicago Park District)

*Project.*

The proposed improvements will include: (1) reconfiguration of the Original Property to include a walking path, site perimeter fencing, drinking fountains, benches, picnic area and landscaping; (2) the environmental investigation and remediation of the Property by enrolling in the Illinois Environmental Protection Agency Site Remediation Program to obtain a comprehensive residential No Further Remediation letter; (3) the demolition of the existing decommissioned City firehouse on the City Property; and (4) the subsequent construction of a new fieldhouse and playground on the City Property. The layout of the newly expanded Kells (George) Park will be reconfigured to utilize the New Park Property to the best potential.

*(Sub)Exhibit "B".*

(To First Amended And Restated Agreement With Chicago Park District)

*Project Budget.*

Sources	Amount
City TIF Grant	\$17,000,000
Total:	\$17,000,000

Uses	Amount
Acquisition	\$ 0
Demolition	800,000
Construction of fieldhouse (includes environmental investigation and remediation)	12,000,000
Playground and site improvements	700,000
Design and construction supervision	2,000,000
Project management	1,500,000
Total:	\$17,000,000

(Sub)Exhibit "C".

(To First Amended And Restated Agreement With Chicago Park District)

Form Of Certificate Of Expenditure.

State of Illinois )
) SS.
County of Cook )

The affiant, Chicago Park District (the "Park District"), an Illinois municipal corporation, hereby certifies that with respect to that certain First Amended and Restated Agreement between the Park District and the City of Chicago dated \_\_\_\_\_, \_\_\_\_ (the "First Amended Agreement"):

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

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

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

C. The Park District requests reimbursement for the following cost of TIF-Funded Improvements:

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

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

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

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

2. No Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute a Default, exists or has occurred.

3. The Park District has approved all work and materials for the current request for a Certificate of Expenditure, and such work and materials conform to the Plans and Specifications.

4. The Park District is in compliance with all applicable federal, state and local laws, statues, ordinances, rules, regulations, codes and executive orders, all as may be in effect from time to time, pertaining to or affecting the Project or the Park District as related thereto.

All capitalized terms that are not defined herein have the meanings given such terms in the First Amended Agreement.

Chicago Park District

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

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

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

\_\_\_\_\_

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

Agreed and Accepted:

\_\_\_\_\_  
Name

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

City of Chicago  
Department of Planning and Development

SETTLEMENT AGREEMENT REGARDING CASE OF *MC CLENDON V. CITY OF CHICAGO, ET AL.*

[Or2024-0012107]

The Committee on Finance submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on Finance, to which was transmitted a proposed order authorizing the Corporation Counsel to enter into and execute a settlement order for the following case: *McClendon v. City of Chicago, et al.*, cited as Case Number 22-cv-5472 (Northern District of Illinois) (Or2024-0012107), in the amount of \$150,000, having had the same under advisement, begs leave to report and recommend that Your Honorable Body *Pass* the proposed order transmitted herewith.

This recommendation was concurred in by a voice vote of the members of the committee present, with no dissenting votes on September 16, 2024.

Respectfully submitted,

(Signed) PAT DOWELL,  
*Chair.*

On motion of Alderperson Dowell, the said proposed order transmitted with the foregoing committee report was *Passed* by yeas and nays as follows:

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

The following is said order as passed:

*Ordered*, That the Corporation Counsel is hereby authorized and directed to enter into and execute a settlement agreement in the following matter: *McClendon v. City of Chicago, et al.*, cited as Case Number 22-cv-5472 (Northern District of Illinois), in the amount of \$150,000.

SETTLEMENT AGREEMENT REGARDING CASE OF *CHERYL HAHN V. CITY OF CHICAGO AND FELICIA WHITE*.

[Or2024-0012108]

The Committee on Finance submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on Finance, to which was transmitted a proposed order authorizing the Corporation Counsel to enter into and execute a settlement order for the following case: *Cheryl Hahn v. City of Chicago and Felicia White*, cited as Case Number 2022 L 008104 (Or2024-0012108), in the amount of \$300,000, having had the same under advisement, begs leave to report and recommend that Your Honorable Body *Pass* the proposed order transmitted herewith.

This recommendation was concurred in by a voice vote of the members of the committee present, with no dissenting votes on September 16, 2024.

Respectfully submitted,

(Signed) PAT DOWELL,  
*Chair.*

On motion of Alderperson Dowell, the said proposed order transmitted with the foregoing committee report was *Passed* by yeas and nays as follows:

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

The following is said order as passed:

*Ordered*, That the Corporation Counsel is hereby authorized and directed to enter into and execute a settlement agreement in the following matter: *Cheryl Hahn v. City of Chicago and Felicia White*, cited as Case Number 2022 L 008104, in the amount of \$300,000.

SETTLEMENT AGREEMENT REGARDING CASE OF *WADDY V. CITY OF CHICAGO, ET AL.*

[Or2024-0012110]

The Committee on Finance submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on Finance, to which was transmitted a proposed order authorizing the Corporation Counsel to enter into and execute a settlement order for the following case: *Waddy v. City of Chicago, et al.*, cited as Case Number 19 L 10035 (Or2024-0012110), in the amount of \$500,000, having had the same under advisement, begs leave to report and recommend that Your Honorable Body *Pass* the proposed order transmitted herewith.

This recommendation was concurred in by a voice vote of the members of the committee present, with no dissenting votes on September 16, 2024.

Respectfully submitted,

(Signed) PAT DOWELL,  
*Chair.*

On motion of Alderperson Dowell, the said proposed order transmitted with the foregoing committee report was *Passed* by yeas and nays as follows:

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

The following is said order as passed:

*Ordered*, That the Corporation Counsel is hereby authorized and directed to enter into and execute a settlement agreement in the following matter: *Waddy v. City of Chicago, et al.*, cited as Case Number 19 L 10035, in the amount of \$500,000.

SETTLEMENT AGREEMENT REGARDING CASE OF *LIGGINS V. CITY OF CHICAGO, ET AL.*

[Or2024-0012111]

The Committee on Finance submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on Finance, to which was transmitted a proposed order authorizing the Corporation Counsel to enter into and execute a settlement order for the following case: *Liggins v. City of Chicago, et al.*, cited as Case Number 20 CV 4085 (Northern District of Illinois) (Or2024-0012111), in the amount of \$2,500,000, having had the same under advisement, begs leave to report and recommend that Your Honorable Body *Pass* the proposed order transmitted herewith.

This recommendation was concurred in by a voice vote of the members of the committee present, with no dissenting votes on September 16, 2024.

Respectfully submitted,

(Signed) PAT DOWELL,  
*Chair.*

On motion of Alderperson Dowell, the said proposed order transmitted with the foregoing committee report was *Passed* by yeas and nays as follows:

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

The following is said order as passed:

*Ordered*, That the Corporation Counsel is hereby authorized and directed to enter into and execute a settlement agreement in the following matter: *Liggins v. City of Chicago, et al.*, cited as Case Number 20 CV 4085 (Northern District of Illinois), in the amount of \$2,500,000.

SETTLEMENT AGREEMENT REGARDING CASE OF *JAKES V. BOUDREAU, ET AL.*

[Or2024-0012112]

The Committee on Finance submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on Finance, to which was transmitted a proposed order authorizing the Corporation Counsel to enter into and execute a settlement order for the following case: *Jakes v. Boudreau, et al.*, cited as Case Number 19-cv-2204 (Northern District of Illinois) (Or2024-0012112), in the amount of \$11,600,000, having had the same under advisement, begs leave to report and recommend that Your Honorable Body *Pass* the proposed order transmitted herewith.

This recommendation was concurred in by a voice vote of the members of the committee present, with no dissenting votes on September 16, 2024. Alderperson Mitts recused herself from voting on this matter under Rule 14 as the plaintiff is a relative.

Respectfully submitted,

(Signed) PAT DOWELL,  
*Chair.*

On motion of Alderperson Dowell, the said proposed order transmitted with the foregoing committee report was *Passed* by yeas and nays as follows:

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 47.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

Alderperson Mitts abstained from voting pursuant to Rule 14 of the City Council's Rules of Order and Procedure due to her familial relationship with the plaintiff.

The following is said order as passed:

*Ordered*, That the Corporation Counsel is hereby authorized and directed to enter into and execute a settlement agreement in the following matter: *Jakes v. Boudreau, et al.*, cited as Case Number 19-cv-2204 (Northern District of Illinois), in the amount of \$11,600,000.

PAYMENT OF MISCELLANEOUS REFUNDS, COMPENSATION FOR PROPERTY DAMAGE, ET CETERA.

[SOr2024-0012096]

The Committee on Finance submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on Finance, small claims division, to which was referred an order for payments of various small claims against the City of Chicago (SOr2024-0012096), having had the same under advisement, begs leave to report and recommend that Your Honorable Body *Pass* the proposed substitute order transmitted herewith.

This recommendation was concurred in by a vote of the members of the committee present with no dissenting votes on September 16, 2024.

Respectfully submitted,

(Signed) PAT DOWELL,  
*Chair.*

On motion of Alderperson Dowell, the said proposed substitute order transmitted with the foregoing committee report was *Passed* by yeas and nays as follows:

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

The following is said order as passed:

*Ordered*, That the City Comptroller is authorized and directed to pay the following named claimants the respective amounts set opposite their names, said amount to be paid in full and final settlement of each claim on the date and location by type of claim as follows:

[List of claimants printed on pages 16035 through 16037  
of this *Journal*.]

City Of Chicago  
**Journal Report for City Council GL Claims**

Last Name	First Name	Address	City	State	Zip Code	DOL	Total Paid	Payee	Location of Accident
<b>Claimant Type Desc: Property(7)</b>									
COSTELLO	PATRICK	1824 W. ELLEN STREET	CHICAGO	IL	60622	01/12/2024	\$375.00	Claimant	1824 W. ELLEN ST.
GONZALEZ	GEORGINA	8348 S KENNETH AVE	CHICAGO	IL	60652	02/14/2024	\$190.37	Claimant	8348 S KENNETH AVE
GORSKI	MICHAEL	3253 S. RACINE AVE.	CHICAGO	IL	60608	02/02/2024	\$835.00	Claimant	3253 S. RACINE AVE.
JOHNSON	MARGARET	8938 S CORNELL AVE	CHICAGO	IL	60617	10/23/2023	\$250.00	Claimant	8938 S CORNELL AVE
LINDAHL	ERIC	5881 N. RIDGE AVE.	CHICAGO	IL	60660	08/03/2023	\$650.00	Claimant	5881 N. RIDGE AVE.
MAGEE	DORA	11421 S ASHLAND AVE	CHICAGO	IL	60643	01/09/2024	\$885.00	Claimant	11421 S ASHLAND AVE
		Number							
		Amount							
Total of Split Claims:		6	\$3,185.37						
<b>Claimant Type Desc: Vehicle(8)</b>									
ADELMANN	GERALD	2150 N. CLEVELAND AVE.	CHICAGO	IL	60614	01/27/2024	\$1,253.53	Claimant	1444 N. ASTOR
AGRAWAL	NISHANT	363 E WACKER DRIVE UNIT 2703	CHICAGO	IL	60601	05/01/2024	\$272.65	Claimant	303 E. WACKER DRIVE
AROURI	NAEL	9304 S. 69TH AVE.	OAK LAWN	IL	60453	04/04/2024	\$194.75	Claimant	5900 S. CICERO AVE.
ATHIVIRAHAM	ARAVIND	4645 S. LAKE PARK AVE.	CHICAGO	IL	60653	06/06/2024	\$218.24	Claimant	1800 S. DUSABLE LAKE
BOLUSAN	IRINEO	5832 W CORNELIA AVE	CHICAGO	IL	60634	01/26/2024	\$250.00	Claimant	1552 W NORTH AVE
BOOKER	ESSEL	5653 S. HONORE STREET	CHICAGO	IL	60636	02/19/2024	\$623.66	Claimant	7615 N. SHERIDAN RD.
CAO	ROGER	195 N. HARBOR DR.	CHICAGO	IL	60601	03/31/2024	\$230.87	Claimant	482 E. LOWER WACKER
CORDERO	JOSEDECH	5037 N NORTH WEST HIGHWAY	CHICAGO	IL	60630	03/31/2024	\$52.95	Claimant	1232 W NORTH
ELBASHIER	ABUBAKR	5140 S. HYDE PARK	CHICAGO	IL	60615	02/24/2024	\$186.95	Claimant	4700 DUSABLE LAKE
GONZALEZ	JUAN	5550 W SUNNYSIDE AVENUE (BASEMENT APT)	CHICAGO	IL	60630	01/31/2024	\$126.27	Claimant	5045 N ASHLAND AVE
GREER	MAURISSA	5307 NORTHWIND DRIVE	RIGHTON PARK	IL	60471	08/19/2023	\$540.69	Claimant	3555 W COLUMBUS DRIVE
GUALLP	WALTER	5343 W. NEWPORT	CHICAGO	IL	60641	02/09/2024	\$581.38	Claimant	3202 N. KIMBALL AVE.
HAYES	JAMES	825 W. BUCKINGHAM PL.	CHICAGO	IL	60657	02/23/2024	\$222.06	Claimant	700 N. HALSTED ST.
JAHIRI	JEANNETTE	9705 PARKSIDE AVE.	OAK LAWN	IL	60453	04/08/2024	\$317.20	Claimant	7600 S. KEDZIE AVE
KLOESS	MARK	11 WOODLAND TRAIL	PORTAGE	IN	46368	03/08/2024	\$437.00	Claimant	3713 N. CHRISTIANA AVE.
LAU	KIN	559 SPRUCE LANE	LISLE	IL	60532	05/29/2024	\$1,032.13	Claimant	2340 N. CLYBOURN AVE.
LI	TIE	1211 S PRAIRIE AVE APT 2901	CHICAGO	IL	60605	02/25/2024	\$219.60	DEPARTMENT OF REVENUE	W HARRISON ST & S
LI	TIE	1211 S PRAIRIE AVE APT 2901	CHICAGO	IL	60605	02/25/2024	\$10.87	Claimant	W HARRISON ST & S
LUFFRANO	YOLANDA	3444 HOME AVE.	BERWYN	IL	60402	01/26/2024	\$217.58	Claimant	230 W. MONROE ST.

Last Name	First Name	Address	City	State	Zip Code	DOL	Total Paid	Payee	Location of Accident
MCKINNON	BIANCA	5200 S ELLIS AVE UNIT 503	CHICAGO	IL	60615	02/03/2024	\$95.38	Claimant	5017 S LAKE PARK AVE
MCLAUCHLIN	JARROD	1466 W. WARNER AVE. APT. 3E	CHICAGO	IL	60613	04/03/2024	\$439.20	DEPARTMENT OF REVENUE	922 W. ROSCOE ST.
MCLAUCHLIN	JARROD	1466 W. WARNER AVE. APT. 3E	CHICAGO	IL	60613	04/03/2024	\$100.76	Claimant	922 W. ROSCOE ST.
MEJICANOS	MARY	5120 W. ALTGELD ST. #2	CHICAGO	IL	60639	03/25/2024	\$254.75	Claimant	2232 N. CENTRAL AVE.
MONTAGUE	EVAN	5748 N. HERMITAGE AVE. UNIT# 407	CHICAGO	IL	60660	01/29/2024	\$228.33	Claimant	5699 N. BROADWAY
NEAL	ANDREAL	2819 W. 97TH PLACE	EVERGREEN	IL	60805	04/28/2024	\$259.53	DEPARTMENT OF REVENUE	12700 S. MORGAN ST.
OBANNON	DANIEL	2039 EAST 72ND PLACE	CHICAGO	IL	60649	04/06/2024	\$179.66	Claimant	6520 S DUSABLE LAKES
PATEL	RIMAL	855 W ERIE STREET APT 125	CHICAGO	IL	60642	03/29/2024	\$397.33	Claimant	802 N WABASH AVE
PERALTA	CARMELITA	2815 N LEAVITT STREET UNIT 202	CHICAGO	IL	60618	01/28/2024	\$279.60	DEPARTMENT OF REVENUE	1719 W PETERSON
PIÑO PAEZ	MARIA	3821 WEST MONTROSE AVE APT 2	CHICAGO	IL	60618	03/17/2024	\$673.73	Claimant	4340 N AVERS AVENUE
POLICARPIO	AGNES	1615 N. WINCHESTER	CHICAGO	IL	60622	01/12/2024	\$1,868.90	Claimant	755 S. CLARK ST.
POLICARPIO	AGNES	1615 N. WINCHESTER	CHICAGO	IL	60622	01/12/2024	\$146.40	DEPARTMENT OF REVENUE	755 S. CLARK ST.
PONDEL	JOSIE	2232 W. FOSTER AVE.	CHICAGO	IL	60625	04/06/2024	\$60.00	DEPARTMENT OF REVENUE	1601 N. LAKE SHORE
PONDEL	JOSIE	2232 W. FOSTER AVE.	CHICAGO	IL	60625	04/06/2024	\$392.30	Claimant	1601 N. LAKE SHORE
POPELAS	MARSHALL	735 W. 35TH ST.	CHICAGO	IL	60616	11/01/2023	\$117.98	Claimant	5300 S. WINCHESTER ST
ROBLES JR	LUIS	321 8TH STREET	CHICAGO	IL	60411	01/25/2024	\$428.42	Claimant	2256 E 103RD STREET
ROGERS	MILAN	8614 S. LAFLIN ST.	CHICAGO	IL	60620	05/02/2024	\$113.90	Claimant	8100 S. ASHLAND AVE.
ROSENTHAL	ANDREW	4950 N. MARINE DRIVE	CHICAGO	IL	60640	06/24/2024	\$30.00	Claimant	5131 N. LAKE SHORE
SANDERS-	ANNETTE	11642 S PARNELL AVE	CHICAGO	IL	60628	03/26/2024	\$990.00	Claimant	11642 S PARNELL AVE
SCHREIBER	JASMINE	6551 S INGLESDALE AVE APT 2S	CHICAGO	IL	60637	12/15/2023	\$88.02	Claimant	1831 S LAKESHORE DRIVE
SIARKIEWICZ	KATHLEEN	6505 N. NASHVILLE AVE.	CHICAGO	IL	60631	02/18/2024	\$118.88	Claimant	4439 N. LARAMIE AVE.
SLATTERY	JAMES	1 PARK LN	BOSTON	MA	022101846	04/04/2024	\$610.88	Claimant	1487 S. DUSABLE LAKE
STATEFARM INS	HOOPER, ERIN	P.O. BOX 106172	ATLANTA	GA	303486172	10/04/2023	\$895.94	Claimant	2310 S. LAKE SHORE DR.
STATEFARM INS	GARZA, ROBERT	PO BOX 106172	ATLANTA	GA	303486172	10/11/2024	\$1,706.12	Claimant	1500 N. CLYBOURN AVE.
STEFA	BLEDI	1001 S. EUCLID AVE.	ELMHURST	IL	60126	01/28/2024	\$243.81	Claimant	1323 W. CORTLAND ST.
STEFA	BLEDI	1001 S. EUCLID AVE. APT. 2N	ELMHURST	IL	60126	01/26/2024	\$178.75	Claimant	1255 W. SCHUBERT AVE.
TORREZ	DIEGO	4825 HULL ST.	SKOKIE	IL	60077	04/08/2024	\$319.19	Claimant	6388 N. LINCOLN AVE.
USAA AS/O	FARIS, SARAH	2929 NORTH CENTRAL EXPY, STE. 320	RICHARDSON	TX	75080	08/07/2023	\$2,005.54	Claimant	5200 S. COTTAGE GROVE
VOIGHT	DARLENE	4900 W BYRON ST	CHICAGO	IL	60641	04/11/2024	\$40.00	Claimant	3948 N LAVERGNE
WILLHITE	KAREN	1760 W WRIGHTWOOD APT 104	CHICAGO	IL	606141946	02/05/2024	\$167.53	Claimant	1982 N CLYBOURN AVE
WILLIAMS	KOBE	1229 E. 53RD ST.	CHICAGO	IL	60615	10/29/2023	\$421.18	Claimant	3851 S. WESTERN AVE.

Last Name	First Name	Address	City	State	Zip Code	DOL	Total Paid	Payee	Location of Accident
WOLZ	MICHAEL	440 W ALDINE AVENUE APT 1E	CHICAGO	IL	606573633	01/29/2024	\$181.73	Claimant	4251 NORTH CLARENDON
ZAVALA	DANAE	6734 N. TALMAN AVE.	CHICAGO	IL	60645	02/15/2024	\$258.45	Claimant	3501 - 3531 W.

Total of Split Claims:      Number      52      Amount      \$21,280.57

Total of Split Claims:      Number      58      Amount      \$24,465.94

*Do Not Pass* -- CLAIMS FOR VARIOUS REFUNDS.

[SCL2024-0012099]

The Committee on Finance submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on Finance, small claims division, to which was referred on January 16, 2023 and on subsequent dates, sundry claims for various refunds (SCL2024-0012099), having the same under advisement, begs leave to report and recommend that Your Honorable Body *Do Not Pass* the said substitute claims for payment.

This recommendation was concurred in by a vote of the members of the committee, with no dissenting votes, on September 16, 2024.

Respectfully submitted,

(Signed) PAT DOWELL,  
*Chair.*

On motion of Alderperson Dowell, the committee's recommendation was *Concurred In* by yeas and nays as follows:

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

[List of denied claimants printed on pages 16039 and 16040  
of this *Journal*.]

City Of Chicago

Denied Claims by Claim Name

Denied Date: 09/18/2024

Claimant Name	Claimant Address	Incident Date	Introduced to City Council	Claim Number	Denial Reason
AGGARWAL, GAURAV		4/14/24 12:00 AM		2024370752	TORT LIABILITY
ARRINGTON, DOMINIQUE A		1/14/24 12:00 AM		2024370551	CLAIM IS FORWARDED TO URT TOWING INC. ATTN CLAIMS
BARNETT, ANNA		5/13/24 12:00 AM		2024370731	TORT LIABILITY
BLACK, DONNA K.		5/10/24 12:00 AM		2024370724	CROSSTOWN FIBER
BOYD, MARETHA		4/25/24 12:00 AM		2024370531	CLAIM WAS TOWED AND IMPOUNDED BY URT ROAD TOWING
BROOKS, QIAN I		6/7/24 12:00 AM		2024370738	COMED NORTH 3 LINCOLN CENTER OAKBROOK, LLINOIS PH
COUNCIL, TADIA S.		3/5/24 12:00 AM		2024370729	REFERRED TO LAW DEPT. OVER \$2,500.00
CRISP, CHRISTOPHER B.		6/22/24 12:00 AM		2024370716	THE DAMAGE IN THE CLAIM WAS NOT A RESULT OF TREE
DURAN-MARTINEZ, ULISES		6/14/24 12:00 AM		2024370787	TORT LIABILITY
ESKILSON, STEPHEN J		9/19/23 12:00 AM		2023370320	CLAIMANT NON-RESPONSIVE
GARCIA, MARCELO		5/5/24 12:00 AM		2024370746	REFERRED TO LAW DEPT. OVER \$2,500.00
GEICO A/S/O CLARK, TAMIKA		2/9/24 12:00 AM		2024370719	REFERRED TO LAW DEPT. OVER \$2,500.
GEICO CASUALTY A/S/O LOPEZ,		1/11/24 12:00 AM		2024370455	DSS DENIES CLAIM 2024370455. THE POLICE REPORT IN THE
GRASON, RONALD		5/30/24 12:00 AM		2024370693	IDOT
HARG, SALVADOR & TORRES,		2/14/24 12:00 AM		2024370689	PLEASE FILE WITH: CHICAGO TRANSIT AUTHORITY 312-881-
HERRICK, LAURA L.		6/4/24 12:00 AM		2024370723	REFERRED TO LAW DEPT. OVER \$2,500
HOVERSON, MARK W.		2/7/23 12:00 AM		2023370702	STATUS OF LIMITATIONS FOR FILING A CLAIM HAVE EXPIRED.
KANG, JEFFREY L.		5/18/24 12:00 AM		2024370769	TORT LIABILITY
KOZIOL, MONICA		6/14/23 12:00 AM		2023370745	STATUS OF LIMITATIONS FOR FILING A CLAIM HAS EXPIRED
LORYS, JAN M.		6/3/24 12:00 AM		2024370780	TORT LIABILITY
LOVE, ARLENE		1/12/24 12:00 AM		2024370557	THE DAMAGE IN THE CLAIM WAS NOT A RESULT OF TREE
MADONIA, MICHAEL A.		5/30/24 12:00 AM		2024370728	IDOT
MALCOMBE, DELORIS		4/28/24 12:00 AM		2024370640	THE DAMAGE IN THE CLAIM WAS NOT A RESULT OF TREE
MARTIN-COLEMAN, TONYA R.		5/12/24 12:00 AM		2024370764	BIGANE PAVING CO. 935 W. CHESTNUT ST. STE. 100, CHICAGO
MCCURTIS, PRISCILLA A.		4/13/24 12:00 AM		2024370603	RECORDS INDICATE THAT THE DAMAGE CLAIMED WAS ON THE
MCINTYRE, MARCUS K.		6/1/24 12:00 AM		2024370708	CLAIM WAS TOWED BY URT ROAD TOWING INC ATTN: CLAIMS
MEI, BAIA.		5/22/24 12:00 AM		2024370715	THE DSS ACCIDENT REPORT FOR THIS VEHICLE ACCIDENT
MIDYETT, TIMOTHY B.		3/20/24 12:00 AM		2024370740	3RD PARTY PERMIT# DOT1894217, CROSSTOWN FIBER
NICHOLAS, FREDRICKAY		5/19/24 12:00 AM		2024370733	MILLERNIUM CONTRACTING CORP., 5933 N. KNOX, CHICAGO, IL
ORTEGO, ELVIS		6/4/24 12:00 AM		2024370766	TORT LIABILITY
PADILLA, MOISES		3/24/24 12:00 AM		2024370684	THE DAMAGE IN THE CLAIM WAS NOT A RESULT OF TREE
PHILLIPS, TAMMY S		6/11/24 12:00 AM		2024370694	IDOT
POLICARPID, AGNIES G		1/12/24 12:00 AM		2024370711	DUPLICATE CLAIM: 2024370522
QUARTERMAN, A NTHONY L.		6/4/24 12:00 AM		2024370737	NO LEGAL PROVISION FOR PAYING YOUR CLAIM
SALAZAR, MONICA		12/16/23 12:00 AM		2023370417	THE CLAIM WAS TOWED AND IMPOUNDED BY URT TOWING,
SARLI, MARCO A.		4/2/24 12:00 AM		2024370701	IDOT
STEMPLEN, JOHN A.		5/3/24 12:00 AM		2024370696	IDOT
STILLER, JOAN		1/120/23 12:00 AM		2023370550	THE DAMAGE IN THE CLAIM WAS NOT A RESULT OF TREE

Denied Date: 09/18/2024

Claimant Name	Claimant Address	Incident Date	Introduced to City Council	Claim Number	Denial Reason
TATUM, VALORIE		4/2/24 12:00 AM		2024370555	THE DAMAGE IN THE CLAIM WAS NOT A RESULT OF TREE
TRAVELERS INS. A/S/O MORGAN,		3/5/24 12:00 AM		2024370666	THE CHICAGO POLICE DEPARTMENT DETERMINED THAT THE
TRUJILLO, CESAR A		1/16/23 12:00 AM	03/15/2023	2023369604	NO RESPONSE FROM CLAIMANT
UHM, JUNA Y.		6/7/24 12:00 AM		2024370774	TORT LIABILITY
UKRAINSKIY, TARAS		5/4/24 12:00 AM		2024370700	DUPLICATER# 2024370517 & FILE WITH IDOT
WALSH, PATRICIA S.		5/28/24 12:00 AM		2024370767	3RD PERMIT# DOT1948249 FROM CROSSTOWN FIBER
WARE, CARRIE J.		6/18/24 12:00 AM		2024370696	TORT LIABILITY - NO LEGAL LIABILITY TO PAY CLAIM FOR RAT
WHITE, FRANCHELLE J		3/5/24 12:00 AM		2024370727	REFERRED TO CCMSL OVER \$2,500.
WHITE, SARAH		5/30/23 12:00 AM		2023370705	STATUTE OF LIMITATIONS FOR FILING A CLAIM HAS EXPIRED.
WINTERS SR, PHILLIP D		6/30/23 12:00 AM		2023370249	NO RESPONSE FROM CLAIMANT
YATES, OLIVIA A.		4/1/24 12:00 AM		2024370697	DWM DENIED THIRD PARTY CONTRACTOR, CONTACT MILLER
ZACHARY, ERIN E.		6/4/24 12:00 AM		2024370698	IDOT
ZIONS, JEFFREY P.		4/5/24 12:00 AM		2024370750	TORT LIABILITY

*Placed On File* -- ISSUANCE OF CITY OF CHICAGO CHARITABLE SOLICITATION (TAG DAY) PERMITS.

[Or2024-0012101]

The Committee on Finance submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on Finance, to which was referred a proposed order authorizing Charitable Solicitation on the Public Way (Tag Day) permits for The Salvation Army North and Central Illinois Division and Save the Children Federation, Inc. (Or2024-012101), having had the same under advisement, begs leave to report and recommend that Your Honorable Body *Place on File* the proposed order transmitted herewith.

This recommendation was concurred in by a vote of the members of the committee present with no dissenting votes on September 16, 2024.

Respectfully submitted,

(Signed) PAT DOWELL,  
*Chair.*

On motion of Alderperson Dowell, the committee's recommendation was *Concurred In* and said order was *Placed on File*.

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*Placed On File* -- JUDGMENT AND SETTLEMENT REPORT FOR MONTHS OF JULY AND AUGUST 2024.

[F2024-0012100]

The Committee on Finance submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on Finance, to which was submitted a list of cases in which verdicts, judgments or settlements were entered into for the months of July and August 2024 (F2024-0012100), having had the same under advisement, begs leave to report and

recommend that Your Honorable Body *Place on File* the communication transmitted herewith.

This recommendation was concurred in by a vote of the members of the committee present, with no dissenting votes on September 16, 2024.

Respectfully submitted,

(Signed) PAT DOWELL,  
*Chair.*

On motion of Alderperson Dowell, the committee's recommendation was *Concurred In* and said list of cases and report were *Placed on File*.

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**COMMITTEE ON AVIATION.**

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THIRD AMENDMENT TO PHASE I LEASE, SECOND AMENDMENT TO PHASE II LEASE AND FIRST AMENDMENT TO PHASE III LEASE WITH AERO CHICAGO FOR CARGO FACILITY OPERATIONS AT CHICAGO O'HARE INTERNATIONAL AIRPORT.

[O2024-0011042]

The Committee on Aviation submitted the following report:

CHICAGO, September 12, 2024.

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

Your Committee on Aviation, for which a meeting was held on Tuesday, September 10, 2024, recommends passage of ordinance (O2024-0011042) introduced on July 17, 2024, by the Honorable Brandon Johnson, Mayor, authorizing the execution of a third amendment to Phase I lease, second amendment to Phase II lease and first amendment to Phase III lease with Aero Chicago for cargo facility operations at Chicago O'Hare International Airport.

A recommendation of *Do Pass* was concurred in by a voice vote of all the committee members present, with no dissenting votes.

Respectfully submitted,

(Signed) MATTHEW J. O'SHEA,  
*Chair.*

On motion of Alderperson O'Shea, the said proposed ordinance transmitted with the foregoing committee report was *Passed* by yeas and nays as follows:

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

The following is said ordinance as passed:

WHEREAS, The City of Chicago ("City") is a home rule unit of government as defined in Article VII, Section 6(a) of the Illinois Constitution and, as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, The City owns and operates Chicago O'Hare International Airport ("Airport") and possesses the power and authority to lease its premises and facilities and to grant other rights and privileges with respect thereto; and

WHEREAS, The City is vested with authority to provide for the needs of aviation, commerce, shipping, and traveling to and around the Airport to promote and develop the Airport, and, in the exercise of such power, to lease City-owned properties at the Airport, upon such terms and conditions as the corporate authorities of the City shall prescribe; and

WHEREAS, The City and Aero Chicago LLC, a Delaware limited liability company ("Aero Chicago"), previously executed and delivered that certain Aero Chicago LLC Cargo Facility Phase I Lease, dated August 8, 2012 (the "Original Phase I Lease"), which Original Phase I Lease provides, among other things, for a right for Aero Chicago to lease the Phase I Leased Premises (as defined therein) from the City in accordance with the provisions set forth therein, pursuant to an ordinance of the City adopted on June 28, 2012; and

WHEREAS, The City and Aero Chicago previously executed and delivered that certain First Amendment to the Phase I Lease, dated June 30, 2016, and that certain second amendment to the Phase I Lease, dated March 16, 2021, each amending the Original Phase I Lease (the Original Phase I Lease as so amended, the "Phase I Lease"); and

WHEREAS, The City and Aero Chicago have determined that it is necessary to amend the Phase I Lease (the "Third Amendment to the Phase I Lease"); and

WHEREAS, The City and Aero Chicago desire to enter into the Third Amendment to the Phase I Lease substantially in the form attached hereto as Exhibit A; and

WHEREAS, The City and Aero Chicago previously executed and delivered that certain Aero Chicago LLC Cargo Facility Phase II Lease, dated April 26, 2016 (the "Original Phase II Lease"), which Original Phase II Lease provides, among other things, for a right for Aero Chicago to lease the Phase II Leased Premises (as defined therein) from the City in accordance with the provisions set forth therein, pursuant to an ordinance of the City adopted on June 28, 2012; and

WHEREAS, The City and Aero Chicago previously executed and delivered that certain First Amendment to the Phase II Lease, dated March 16, 2021, amending the Original Phase II Lease (the Original Phase II Lease as so amended, the "Phase II Lease"); and

WHEREAS, The City and Aero Chicago have determined that it is necessary to amend the Phase II Lease (the "Second Amendment to the Phase II Lease"); and

WHEREAS, The City and Aero Chicago desire to enter into the Second Amendment to the Phase II Lease substantially in the form attached hereto as Exhibit B; and

WHEREAS, The City and Aero Chicago II LLC, a Delaware limited liability company and affiliate of Aero Chicago ("Aero Chicago II"), previously executed and delivered that certain Aero Chicago II LLC Cargo Facility Phase III Lease, dated March 16, 2021 (the "Phase III Lease"), which Phase III Lease provides, among other things, for a right for Aero Chicago II to lease the Phase III Leased Premises (as defined therein) from the City in accordance with the provisions set forth therein, pursuant to an ordinance of the City adopted on January 27, 2021; and

WHEREAS, The City and Aero Chicago have determined that it is necessary to amend the Phase III Lease (the "First Amendment to the Phase III Lease"); and

WHEREAS, The City and Aero Chicago desire to enter into the First Amendment to the Phase III Lease substantially in the form attached hereto as Exhibit C; now, therefore,

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

SECTION 1. The above recitals are incorporated by reference as if fully set forth herein.

SECTION 2. The Mayor or the Mayor's proxy is hereby authorized to execute, upon the recommendation of the Commissioner of the Chicago Department of Aviation ("Commissioner") and the approval of the Corporation Counsel as to form and legality, the Third Amendment to the Phase I Lease, substantially in the form attached hereto as Exhibit A.

SECTION 3. The Mayor or the Mayor's proxy is hereby authorized to execute, upon the recommendation of the Commissioner and the approval of the Corporation Counsel as to form and legality, the Second Amendment to the Phase II Lease, substantially in the form attached hereto as Exhibit B.

SECTION 4. The Mayor or the Mayor's proxy is hereby authorized to execute, upon the recommendation of the Commissioner and the approval of the Corporation Counsel as to form and legality, the First Amendment to the Phase III Lease, substantially in the form attached hereto as Exhibit C.

SECTION 5. The Commissioner and such other City officials and employees as may be required are authorized to take such actions and execute such other documents as may be necessary or desirable to implement the objectives of this ordinance.

SECTION 6. To the extent that any ordinance, resolution, rule, order or provision of the City, 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 in full force and effect from the date of its passage and approval.

Exhibits "A", "B" and "C" referred to in this ordinance read as follows:

*Exhibit "A".*  
(To Ordinance)

*Third Amendment To Aero Chicago LLC Cargo Facility Phase I Lease.*

This Third Amendment To Aero Chicago LLC Phase I Cargo Facility Lease ("Amendment") is executed and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2024, (the "Amendment Date") by and between the City of Chicago, a municipal corporation and home rule unit of local government organized and existing under Article VII, Sections 1 and 6(a), respectively, of the 1970 Constitution of the State of Illinois, as lessor under this Phase I Lease (herein referred to as the "City" or the "Landlord"), and Aero Chicago LLC, a Delaware limited liability company, as lessee under this Phase I Lease (herein referred to as the "Tenant", the Tenant and the City are herein collectively referred to as the "Parties" and each as a "Party").

*Recitals:*

Whereas, The City is a municipality and a home rule unit of local government, duly organized and validly existing under the Constitution and laws of the State of Illinois, and, in accordance with the provisions of Section 6(a) of the 1970 Constitution of the State of Illinois, is authorized to enter into a lease agreement with respect to facilities used for the receiving and storing of cargo being transported at Chicago O'Hare International Airport (the "Airport") upon the terms and conditions the City considers advisable; and

Whereas, The City has the authority to lease facilities and to grant rights and privileges with respect to the Airport; and

Whereas, The City and Aero Chicago LLC previously executed and delivered that certain Aero Chicago LLC Phase I Cargo Facility Lease dated August 8, 2012 (the "Original Phase I Lease"), as amended by that certain Amendment to Aero Chicago LLC Phase I Cargo Facility Lease, dated June 30, 2016 (the "First Amendment to Original Phase I Lease"), and as further amended by that certain Second Amendment to Aero Chicago LLC Phase I Cargo Facility Lease dated, March 16, 2021 (the "Second Amendment to Original Phase I Lease" the Original Phase I Lease as amended by the First Amendment to Original Phase I Lease, the Second Amendment to Original Phase I Lease and as further amended from time to time, is herein referred to as the "Phase I Lease") which Phase I Lease provides, among other things, for a right of Aero Chicago LLC to lease the Phase III Leased Premises (as defined therein) from the City in accordance with the provisions set forth therein; and

Whereas, The City and Aero Chicago LLC previously executed and delivered that certain Aero Chicago LLC Phase II Cargo Facility Lease dated April 26, 2016 (the "Original Phase II Lease"), as amended by that certain Amendment to Aero Chicago LLC Phase II Cargo Facility Lease, dated March 21, 2021 (the "First Amendment to Original Phase II Lease", the Original Phase II Lease, as amended by the First Amendment to Original Phase II Lease and as further amended from time to time, is herein referred to as the "Phase II Lease"); and

Whereas, The City and the Aero Chicago II LLC, an affiliate of Tenant, further entered into that certain Cargo Facility Phase III Lease, dated March 16, 2021 ("Phase III Lease"), relating to certain real estate consisting of approximately 10.28 acres of land defined as the Phase III Site Leased Premises and described on (Sub)Exhibit A-1 to the Phase III Lease, together with all improvements thereon, situated at the Airport; and

Whereas, The City and the Tenant have determined it is necessary to amend the Phases I and II Leases for the purposes as set forth in this Amendment including rendering the Phases I and II Termination Dates coterminous with the Phase III Termination Date as reflected in the Phase III Lease (the Phase I Lease as amended by this Amendment is herein referred to as the "Amended Lease"); and

Whereas, Execution of this Amendment by the City is authorized by ordinance passed by the City Council of the City of Chicago on \_\_\_\_\_ (*Journal of the Proceedings of the City Council of the City of Chicago*, pages \_\_\_\_\_ through \_\_\_\_\_); and

Whereas, Capitalized terms used in this Amendment shall have the meanings set forth in the Phase I Lease except as otherwise defined herein.

#### Terms, Covenants And Conditions:

Now, Therefore, In consideration of the premises and of the mutual representations, covenants and agreements herein set forth, the City and the Tenant, each binding itself, its successors and assigns, do mutually promise, covenant and agree as follows; provided that, in the performance of the agreements of the City herein contained, any obligation it may incur for the payment of money shall not constitute an indebtedness or other liability of the State or of a political subdivision of the State, except the City:

Section 1. Term. The City and the Tenant desire to modify certain terms and conditions of the Phase I Lease to reflect the agreement of the parties that the Phase I Termination Date will be coterminous with the Phase III Termination Date.

#### Revisions To Section 3.1 Term.

The first paragraph of Section 3.1 is amended and restated as follows:

“(a) Term. (i) the Term of this Lease for the lease of the Leased Premises from the City to the Tenant shall be indivisible and non-severable, shall be for a period of time commencing on the Date of Beneficial Occupancy (the “Commencement Date”) and expiring at 11:59 P.M. Chicago time on April 30, 2058 (the “Phase I Termination Date”), unless this Lease is terminated on an earlier date pursuant to the terms and provisions of this Lease (the “Phase I Term”). The City and the Tenant agree to promptly memorialize the Commencement Date in writing following the determination of the Commencement Date.”

Section 2. Short Form Of Lease. On or after the Amendment Date, Landlord and Tenant shall amend the Memorandum of Lease recorded on \_\_\_\_\_, 2012, in the Recorder’s Office of Cook County, Illinois, as Document Number \_\_\_\_\_, to reflect the material terms of this Amendment, and shall record an amendment to the recorded Memorandum of Lease in accordance with Section 15.19 of the Phase I Lease.

Section 3. Representations And Warranties. The Tenant represents and warrants to the City as follows:

- (a) All of the representations and warranties of the Tenant set forth in the Phase I Lease remain in full force and effect as if made on the date of this Amendment; no event of default under the Amended Lease has occurred and is continuing; the

Amended Lease may be enforced in accordance with their terms by the City against the Tenant; the Tenant claims no defense or counterclaim against the City in connection with the enforcement of the Amended Lease and have no other claim against the Lender; and all of the statements set forth in the "Recitals" herein above are true and correct.

(b) The Tenant has full power and authority to execute, deliver and perform this Amendment and any other documents and agreements executed herewith. This Amendment and any other documents and agreements executed herewith are the legal and binding obligations of the Tenant enforceable in accordance with their respective terms, except as limited by bankruptcy, insolvency or other laws of general application relating to the enforcement of creditors' rights.

(c) No litigation, investigation or governmental proceeding is pending or, to the knowledge of the Tenant, threatened against or affecting them in any way.

(d) The execution, delivery and performance of this Amendment and the consummation of the transactions hereby contemplated will not conflict with any law, statute or regulation to which the Tenant is subject or any judgment, license, order or permit applicable to the Tenant or any indenture, mortgage, deed of trust or other instrument to which the Tenant is subject; and no consent, approval, authorization or order of any court, governmental authority or other person is required in connection with the execution, delivery or performance of this Amendment by the Tenant.

Section 4. Conditions Precedent. Prior to the execution by the City of this Amendment, the City shall have received from the Tenant such documents as may be reasonably required to evidence Tenant's authority to execute the Amendment, which such documents shall include, but are not limited to, a consent, executed by Corporate Trust Services (successor in interest to Wells Fargo Bank, National Association), as Master Trustee, consenting to the Tenant's execution of the Amendment.

#### Section 5. Miscellaneous.

(a) Time. Time is of the essence of each provision of this Agreement.

(b) Survival. All representations and warranties of the parties contained in this Amendment will survive the execution and delivery of this Amendment.

(c) Binding Effect. This Amendment will inure to the benefit of and bind the respective successors and permitted assigns of the parties.

(d) Severability. If any provision of this Amendment is determined by a court having jurisdiction to be illegal, invalid or unenforceable under any present or future law, the remainder of this Amendment will not be affected thereby. It is the intention of the parties that if any provision is so held to be illegal, invalid or unenforceable, there will be added in lieu thereof a provision as similar in terms to such provision as is possible that is legal, valid and enforceable.

(e) Headings. The headings used in this Amendment are for ease in reference only and are not intended to affect the interpretation of this Agreement in any way.

(f) Amendment. Neither this Amendment nor any of the provisions hereof can be changed, waived, discharged or terminated, except by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

(g) Ratification. This Amendment supersedes, in all respects, all prior written or oral agreements between the Tenant and the Landlord relating to the modification of the Phase I Lease and there are no agreements, understandings, warranties or representations between the parties except as set forth herein.

(h) No Joint Venture. Nothing contained in this Amendment or in the Phase I Lease will be construed to constitute the City as a joint venturer with the Tenant or to constitute a partnership with the Tenant.

(i) Construction. The parties acknowledge that each party and each party's counsel have reviewed and revised this Amendment and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Amendment or any amendments, exhibits or schedules hereto.

(j) Counterparts. This Amendment may be executed in one or more counterparts, of which when so executed shall be deemed to be an original, but all of which when taken together shall constitute one and the same instrument.

(k) Applicable Laws. This Amendment shall be construed in accordance with the internal laws of the State of Illinois.

(l) Final Agreement. The Phase I Lease, as modified hereby, represents the entire expression of the parties with respect to the subject matter hereof on the date this Amendment is executed. The Phase I Lease, as modified hereby, may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten agreements between the parties. No modification, rescission, waiver, release or amendment of any of the provisions of this Amendment shall be made except by a written agreement signed by the City and the Tenant.

In Witness Whereof, The City has caused this Amendment to be executed on its behalf by the Mayor of the City of Chicago and attested by the City Clerk of the City of Chicago, pursuant to due authorization of the City Council, and the Tenant has caused this instrument to be executed on its behalf by its \_\_\_\_\_.

City of Chicago

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

Attest:

By: \_\_\_\_\_  
City Clerk

(Corporate Seal)

Execution Of This Amendment By The  
City Of Chicago Is Recommended  
By The Commissioner Of The  
Chicago Department Of Aviation

By: \_\_\_\_\_  
Commissioner of the Chicago  
Department of Aviation

Approved as to Form and Legality:

By: \_\_\_\_\_  
Chief Assistant Corporation Counsel

Illinois agent for services of process:

Aero Chicago LLC, a Delaware  
limited liability company

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

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

Name: CT Corporation System

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

Address: 208 South LaSalle Street  
Suite 814  
Chicago, Illinois 60604

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

Title: President

[(Sub)Exhibit "A-1" referred to in this Third Amendment to Aero Chicago LLC Cargo Facility Phase I Lease unavailable at time of printing.]

*Exhibit "B".*  
(To Ordinance)

*Second Amendment To Aero Chicago LLC Cargo Facility Phase II Lease.*

This Second Amendment To Aero Chicago LLC Phase II Cargo Facility Lease ("Amendment") is executed and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2024, (the "Amendment Date") by and between the City of Chicago, a municipal corporation and home rule unit of local government organized and existing under Article VII, Sections 1 and 6(a), respectively, of the 1970 Constitution of the State of Illinois, as lessor under this Lease (herein referred to as the "City" or the "Landlord"), and Aero Chicago LLC, a Delaware limited liability company, as lessee under this Lease (herein referred to as the "Tenant", the Tenant and the City are herein collectively referred to as the "Parties" and each as a "Party").

*Recitals:*

Whereas, The City is a municipality and a home rule unit of local government, duly organized and validly existing under the Constitution and laws of the State of Illinois, and, in accordance with the provisions of Section 6(a) of the 1970 Constitution of the State of Illinois, is authorized to enter into a lease agreement with respect to facilities used for the receiving and storing of cargo being transported at Chicago O'Hare International Airport (the "Airport") upon the terms and conditions the City considers advisable; and

Whereas, The City has the authority to lease facilities and to grant rights and privileges with respect to the Airport; and

Whereas, The City and Aero Chicago LLC previously executed and delivered that certain Aero Chicago LLC Phase I Cargo Facility Lease dated August 8, 2012 (the "Original Phase I Lease"), as amended by that certain Amendment to Aero Chicago LLC Phase I Cargo Facility Lease, dated June 30, 2016 (the "First Amendment to Original Phase I Lease"), and as further amended by that certain Second Amendment to Aero Chicago LLC Phase I Cargo Facility Lease dated, March 16, 2021 (the "Second Amendment to Original Phase I Lease", the Original Phase I Lease as amended by the First Amendment to Original Phase I Lease, the Second Amendment to Original Phase I Lease and as further

amended from time to time, is herein referred to as the "Phase I Lease") which Phase I Lease provides, among other things, for a right of Aero Chicago LLC to lease the Phase III Leased Premises (as defined therein) from the City in accordance with the provisions set forth therein; and

Whereas, The City and Aero Chicago LLC previously executed and delivered that certain Aero Chicago LLC Phase II Cargo Facility Lease dated April 26, 2016 (the "Original Phase II Lease"), as amended by that certain Amendment to Aero Chicago LLC Phase II Cargo Facility Lease, dated March 16, 2021 (the "First Amendment to Original Phase II Lease", the Original Phase II Lease, as amended by the First Amendment to Original Phase II Lease and as further amended from time to time, is herein referred to as the "Phase II Lease"); and

Whereas, The City and the Aero Chicago II LLC, an affiliate of Tenant, further entered into that certain Cargo Facility Phase III Lease dated March 16, 2021 ("Phase III Lease"), relating to certain real estate consisting of approximately 10.28 acres of land defined as the Phase III Site Leased Premises and described on (Sub)Exhibit A-1 to the Phase III Lease, together with all improvements thereon, situated at the Airport; and

Whereas, The City and the Tenant have determined it is necessary to amend the Phases I and II Leases for the purposes as set forth in this Amendment including rendering the Phases I and II Termination Dates coterminous with the Phase III Termination Date as reflected in the Phase III Lease (the Phase II Lease as amended by this Amendment is herein referred to as the "Amended Lease"); and

Whereas, Execution of this Amendment by the City is authorized by ordinance passed by the City Council of the City of Chicago on \_\_\_\_\_ (*Journal of the Proceedings of the City Council of the City of Chicago*, pages \_\_\_\_\_ through \_\_\_\_\_); and

Whereas, Capitalized terms used in this Amendment shall have the meanings set forth in the Lease except as otherwise defined herein.

#### Terms, Covenants And Conditions:

Now, Therefore, In consideration of the premises and of the mutual representations, covenants and agreements herein set forth, the City and the Tenant, each binding itself, its successors and assigns, do mutually promise, covenant and agree as follows; provided that, in the performance of the agreements of the City herein contained, any obligation it may incur for the payment of money shall not constitute an indebtedness or other liability of the State or of a political subdivision of the State, except the City:

Section 1. Term. The City and the Tenant desire to modify certain terms and conditions of the Phase II Lease to reflect the agreement of the parties that the Phase II Termination Date will be coterminous with the Phase III Termination Date.

Revisions To Section 3.1 Term.

2. The first paragraph of Section 3.1 is amended and restated as follows:

“(a) Term. (i) the Term of this Lease for the lease of the Leased Premises from the City to the Tenant shall be indivisible and non-severable, shall be for a period of time commencing on the Date of Beneficial Occupancy (the “Commencement Date”) and expiring at 11:59 P.M. Chicago time on April 30, 2058 (the “Phase II Termination Date”), unless this Lease is terminated on an earlier date pursuant to the terms and provisions of this Lease (the “Phase II Term”). The City and the Tenant agree to promptly memorialize the Commencement Date in writing following the determination of the Commencement Date.”

Section 2. Short Form Of Lease. On or after the Amendment Date, Landlord and Tenant shall amend the Memorandum of Lease recorded on \_\_\_\_\_, 2016, in the Recorder's Office of Cook County, Illinois, as Document Number \_\_\_\_\_, to reflect the material terms of this Amendment, and shall record an amendment to the recorded Memorandum of Lease in accordance with Section 15.19 of the Phase II Lease.

Section 3. Representations And Warranties. The Tenant represents and warrants to the City as follows:

(a) All of the representations and warranties of the Tenant set forth in the Phase II Lease remain in full force and effect as if made on the date of this Amendment; no event of default under the Amended Lease has occurred and is continuing; the Amended Lease may be enforced in accordance with their terms by the City against the Tenant; the Tenant claims no defense or counterclaim against the City in connection with the enforcement of the Amended Lease and have no other claim against the Lender; and all of the statements set forth in the “Recitals” herein above are true and correct.

(b) The Tenant has full power and authority to execute, deliver and perform this Amendment and any other documents and agreements executed herewith. This Amendment and any other documents and agreements executed herewith are the legal and binding obligations of the Tenant enforceable in accordance with their respective terms, except as limited by bankruptcy, insolvency or other laws of general application relating to the enforcement of creditors' rights.

(c) No litigation, investigation or governmental proceeding is pending or, to the knowledge of the Tenant, threatened against or affecting them in any way.

(d) The execution, delivery and performance of this Amendment and the consummation of the transactions hereby contemplated will not conflict with any law, statute or regulation to which the Tenant is subject or any judgment, license, order or permit applicable to the Tenant or any indenture, mortgage, deed of trust or other instrument to which the Tenant is subject; and no consent, approval, authorization or order of any court, governmental authority or other person is required in connection with the execution, delivery or performance of this Amendment by the Tenant.

Section 4. Conditions Precedent. Prior to the execution by the City of this Amendment, the City shall have received from the Tenant such documents as may be reasonably required to evidence Tenant's authority to execute the Amendment, which such documents shall include, but are not limited to, a consent, executed by Corporate Trust Services (successor in interest to Wells Fargo Bank, National Association), as Master Trustee, consenting to the Tenant's execution of the Amendment.

Section 5. Miscellaneous.

(a) Time. Time is of the essence of each provision of this Agreement.

(b) Survival. All representations and warranties of the parties contained in this Amendment will survive the execution and delivery of this Amendment.

(c) Binding Effect. This Amendment will inure to the benefit of and bind the respective successors and permitted assigns of the parties.

(d) Severability. If any provision of this Amendment is determined by a court having jurisdiction to be illegal, invalid or unenforceable under any present or future law, the remainder of this Amendment will not be affected thereby. It is the intention of the parties that if any provision is so held to be illegal, invalid or unenforceable, there will be added in lieu thereof a provision as similar in terms to such provision as is possible that is legal, valid and enforceable.

(e) Headings. The headings used in this Amendment are for ease in reference only and are not intended to affect the interpretation of this Agreement in any way.

(f) Amendment. Neither this Amendment nor any of the provisions hereof can be changed, waived, discharged or terminated, except by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

(g) Ratification. This Amendment supersedes, in all respects, all prior written or oral agreements between the Tenant and the Landlord relating to the modification of the Phase II Lease and there are no agreements, understandings, warranties or representations between the parties except as set forth herein.

(h) No Joint Venture. Nothing contained in this Amendment or in the Phase II Lease will be construed to constitute the City as a joint venturer with the Tenant or to constitute a partnership with the Tenant.

(i) Construction. The parties acknowledge that each party and each party's counsel have reviewed and revised this Amendment and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Amendment or any amendments, exhibits or schedules hereto.

(j) Counterparts. This Amendment may be executed in one or more counterparts, of which when so executed shall be deemed to be an original, but all of which when taken together shall constitute one and the same instrument.

(k) Applicable Laws. This Amendment shall be construed in accordance with the internal laws of the State of Illinois.

(l) Final Agreement. The Phase II Lease, as modified hereby, represents the entire expression of the parties with respect to the subject matter hereof on the date this Amendment is executed. The Phase II Lease, as modified hereby, may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten agreements between the parties. No modification, rescission, waiver, release or amendment of any of the provisions of this Amendment shall be made except by a written agreement signed by the City and the Tenant.

In Witness Whereof, The City has caused this Amendment to be executed on its behalf by the Mayor of the City of Chicago and attested by the City Clerk of the City of Chicago, pursuant to due authorization of the City Council, and the Tenant has caused this instrument to be executed on its behalf by its \_\_\_\_\_.

City of Chicago

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

Attest:

By: \_\_\_\_\_  
City Clerk

(Corporate Seal)

Execution Of This Amendment By The  
City Of Chicago Is Recommended  
By The Commissioner Of The  
Chicago Department Of Aviation

By: \_\_\_\_\_  
Commissioner of the Chicago  
Department of Aviation

Approved as to Form and Legality:

By: \_\_\_\_\_  
Chief Assistant Corporation Counsel

Illinois agent for services of process:

Aero Chicago LLC, a Delaware  
limited liability company

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

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

Name: CT Corporation System

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

Address: 208 South LaSalle Street  
Suite 814  
Chicago, Illinois 60604

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

Title: President

[(Sub)Exhibit "A-1" referred to in this Second Amendment to Aero Chicago LLC  
Cargo Facility Phase II Lease unavailable at time of printing.]

*Exhibit "C".*  
(To Ordinance)

*First Amendment To Aero Chicago II LLC Cargo Facility Phase III Lease.*

This First Amendment To Aero Chicago II LLC Phase III Cargo Facility Lease ("Amendment") is executed and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2024, (the "Amendment Date") by and between the City of Chicago, a municipal corporation and home rule unit of local government organized and existing under Article VII, Sections 1 and 6(a), respectively, of the 1970 Constitution of the State of Illinois, as lessor under this Lease (herein referred to as the "City" or the "Landlord"), and Aero Chicago II LLC, a Delaware limited liability company, as lessee under this Lease (herein referred to as the "Tenant", the Tenant and the City are herein collectively referred to as the "Parties" and each as a "Party").

*Recitals:*

Whereas, The City is a municipality and a home rule unit of local government, duly organized and validly existing under the Constitution and laws of the State of Illinois, and, in accordance with the provisions of Section 6(a) of the 1970 Constitution of the State of Illinois, is authorized to enter into a lease agreement with respect to facilities used for the receiving and storing of cargo being transported at Chicago O'Hare International Airport (the "Airport") upon the terms and conditions the City considers advisable; and

Whereas, The City has the authority to lease facilities and to grant rights and privileges with respect to the Airport; and

Whereas, the City and Aero Chicago LLC previously executed and delivered that certain Aero Chicago LLC Phase I Cargo Facility Lease dated August 8, 2012 (the "Original Phase I Lease"), as amended by that certain Amendment to Aero Chicago LLC Phase I Cargo Facility Lease, dated June 30, 2016 (the "First Amendment to Original Phase I Lease"), and as further amended by that certain Second Amendment to Aero Chicago LLC Phase I Cargo Facility Lease, dated March 16, 2021 (the "Second Amendment to Original Phase I Lease", the Original Phase I Lease as amended by the First Amendment to Original Phase I Lease, the Second Amendment to Original Phase I Lease and as further amended from time to time, is herein referred to as the "Phase I Lease") which Phase I Lease provides, among other things, for a right of Aero Chicago LLC to lease the Phase III Leased Premises (as defined therein) from the City in accordance with the provisions set forth therein; and

Whereas, The City and Aero Chicago LLC previously executed and delivered that certain Aero Chicago LLC Phase II Cargo Facility Lease dated April 26, 2016 (the "Original Phase II Lease"), as amended by that certain Amendment to Aero Chicago LLC Phase II Cargo Facility Lease, dated March 16, 2021 (the "First Amendment to Original Phase II Lease", the Original Phase II Lease, as amended by the First Amendment to Original Phase II Lease and as further amended from time to time, is herein referred to as the "Phase II Lease"); and

Whereas, The City and the Tenant, an affiliate of Aero Chicago LLC, further entered into that certain Cargo Facility Phase III Lease, dated March 16, 2021 ("Phase III Lease"), relating to certain real estate consisting of approximately 10.28 acres of land defined as the Phase III Site Leased Premises and described on (Sub)Exhibit A-1 to the Phase III Lease, together with all improvements thereon, situated at the Airport, pursuant to an ordinance ("Phase III Ordinance") of the City Council of the City of Chicago dated January 27, 2021 (*Journal of the Proceedings of the City Council of the City of Chicago*, pages 26316 through 26549); and

Whereas, The City and the Tenant have determined it is necessary to amend the Phase III Lease for the purposes as set forth in this Amendment including, without limitation, to (1) reflect changed circumstances and an agreement between the Parties regarding the design and construction of Taxilane NN; (2) reflect the actual Lease Commencement Date, and (3) obligate the Tenant to perform certain repairs in exchange for rent credits for costs incurred, (the Phase III Lease as amended by this Amendment is herein referred to as the "Amended Lease"); and

Whereas, Execution of this Amendment by the City is authorized by ordinance passed by the City Council of the City of Chicago on \_\_\_\_\_ (*Journal of the Proceedings of the City Council of the City of Chicago*, pages \_\_\_\_\_ through \_\_\_\_\_); and

Whereas, Capitalized terms used in this Amendment shall have the meanings set forth in the Lease except as otherwise defined herein.

Terms, Covenants And Conditions:

Now, Therefore, In consideration of the premises and of the mutual representations, covenants and agreements herein set forth, the City and the Tenant, each binding itself, its successors and assigns, do mutually promise, covenant and agree as follows; provided that, in the performance of the agreements of the City herein contained, any obligation it may incur for the payment of money shall not constitute an indebtedness or other liability of the State or of a political subdivision of the State, except the City:

Section 1. City And Tenant Responsibilities For Taxilane NN Improvements. The City and the Tenant desire to modify certain terms and conditions of the Phase III Lease to reflect the agreement of the parties that the City shall construct the Taxilane NN Improvements and the Tenant shall be responsible for the design of the Taxilane NN Improvements and shall not be responsible for construction of the Taxilane NN Improvements.

Revisions To Section 2.6 Present Condition Of Leased Premises.

1. Section 2.6(i) is amended and restated in its entirety as follows:

(i) The Tenant will construct the Tenant Infrastructure Improvements in accordance with Section 2.16, provided that the City will be responsible to pay the costs of, or reimburse the Tenant for paying the costs of, the Tenant Infrastructure Improvements through either direct payments to the Tenant or through credits against Base Rent due under the Lease, as set forth in Section 4.7 of this Lease and as set forth in the applicable Reimbursement Agreement related to the applicable Tenant Infrastructure Improvements; and

Revisions To Section 2.16 Tenant Infrastructure Improvements.

1. The first paragraph of Section 2.16 is amended and restated in its entirety as follows:

"Section 2.16. Tenant Infrastructure Improvements. With respect to the construction and development of the Cargo Facility on the Leased Premises, the City and the Tenant acknowledge and agree that the infrastructure improvements described in this Section 2.16 below (and as more fully described in (Sub)Exhibit I, attached hereto,

the "Tenant Infrastructure Improvements") will need to be designed and constructed in order for the Tenant to operate the Cargo Facility on the Leased Premises upon completion of the construction of the Cargo Facility. With the exception of Taxilane NN, for which Tenant shall only be responsible for the design, the Tenant shall design and construct the Tenant Infrastructure Improvements."

2. Section 2.16(b) is amended and restated in its entirety as follows:

"(b) Taxilane NN Improvements.

(i) As part of the Tenant Infrastructure Improvements to be designed and constructed by the Tenant, the Tenant shall design and the City shall construct (i) a Taxilane NN running between the taxiway and the ramp servicing the Phase III Cargo Facility to allow ingress and egress of aircraft utilizing the Phase III Cargo Facility, (ii) an Air Side Service Road to allow vehicles ingress and egress to the Phase III Cargo Facility, and (iii) construction of applicable utilities from the southern edge of the Taxilane NN to the south side of the Air Side Service Road, as more fully described in (Sub)Exhibit I attached hereto (collectively, the "Taxilane NN Improvements").

(ii) The Tenant, by executing this Amendment, certifies that it has delivered to the City true, correct and complete copies of the Tenant Infrastructure Improvements Design Plans for the design and construction of the Taxilane NN Improvements. Subject to the terms and conditions of the Phase III Lease, as amended, and the reimbursement agreement between the City and the Tenant for the Taxilane NN Improvements (the "Taxilane NN Reimbursement Agreement"), the City shall reimburse the Tenant for the actual and verifiable costs for the design and construction of the Taxilane NN Improvements approved by the City.

(iii) At the sole election of the City, the City shall reimburse the Tenant for the actual and verifiable costs for the design of the Taxilane NN Improvements through (A) direct reimbursement by the City to the Tenant and/or (B) rent credits against Combined Rent, which reimbursement of the Tenant shall be pursuant to the terms and provisions of Section 4.7 of the Lease and the terms and provisions of the Taxilane NN Reimbursement Agreement.

(iv) The City has informed the Tenant that the City will seek FAA funds for the design and construction of the Taxilane NN Improvements. For the design of the Taxilane NN Improvements, where Federal Contract Requirements for FAA funded projects are inconsistent with, or conflict with, City requirements, the Parties agree that the Tenant will comply with Federal Contract Requirements in lieu of the City requirements to the extent of such inconsistency. The Tenant shall notify the

City in writing whenever the Tenant believes that compliance with the Federal Contract Requirements will prevent the Tenant from complying with City requirements with respect to the design of the Taxilane NN Improvements and the City will have the opportunity to respond where the City does not reasonably believe there is an inconsistency between the Federal Contract Requirements and the City requirements.”

3. Section 2.16(e)(i) is amended and restated in its entirety as follows:

“(e) Tenant Infrastructure Improvements Design Plans.

(i) The Tenant shall be responsible for completing the preparation of the plans for the design of the Tenant Infrastructure Improvements consisting of the Utility and South Access Road Improvements, the Taxilane NN Improvements, and the Airside Perimeter Work, all as more fully described in (Sub)Exhibit I (collectively, the “Tenant Infrastructure Improvements Design Plans”). The Tenant shall be responsible for the construction of the Utility and South Access Road Improvements and the Airside Perimeter work in compliance with the Tenant Infrastructure Improvements Design Plans that have been completed by the Tenant and approved by the City. The City shall construct the Taxilane NN Improvements based upon the Tenant Infrastructure Improvements Design Plan for the Taxilane NN Improvements. The City shall be responsible for the actual and reasonable costs of the Tenant Infrastructure Improvements Design Plans. After Tenant has delivered and the City has reviewed and approved the Tenant Infrastructure Improvements Design Plans, the City shall reimburse the Tenant for the Tenant Infrastructure Improvements Design Plans in accordance with the terms and conditions of the Phase III Lease, as amended, and the Utility and South Access Road Reimbursement Agreement, the Taxilane NN Reimbursement Agreement, and the Airside Perimeter Work Reimbursement Agreement.”

4. Section 2.16(j) is amended and restated in its entirety as follows:

“(j) Completion of Utility and South Access Road Improvements and Airside Perimeter Work.

Except for the Taxilane NN Improvements, which shall be constructed by the City, upon completion of the Tenant Infrastructure Improvements, the Tenant shall deliver to the City a completion certificate in the form described in Section 5.9(a) of this Lease.”

Revisions To Section 5.2 Construction Of Improvements.

1. The first paragraph of Section 5.2 is amended and restated in its entirety as follows:

“Section 5.2 Construction Of Improvements. The Tenant shall construct and complete, at its own expense, improvements, fixtures and facilities on the Leased Premises, reasonably necessary to construct the Cargo Facility and related improvements, fixtures and facilities on the Phase III Leased Premises, as more fully described in (Sub)Exhibit J attached hereto and made a part hereof. The Tenant will also design the Tenant Infrastructure Improvements Design Plans and construct the Utility and South Access Road Improvements and the Airside Perimeter Work in accordance with the provisions of Section 2.16(d)-(f) and (Sub)Exhibit I attached hereto (the Cargo Facility and the Tenant Infrastructure Improvements together with all related improvements, are herein collectively referred to as the “Improvements”). The Utility and South Access Road Improvements and the Airside Perimeter Work shall be constructed by the Tenant consistent with the respective Tenant Infrastructure Improvements Design Plans. The Cargo Facility shall be constructed by the Tenant consistent with the Cargo Facility Plans (as defined herein below) and in compliance with the terms, provisions, covenants, conditions and restrictions applicable to the construction and completion of the Cargo Facility and related fixtures and facilities contained in this Lease and in compliance with the applicable covenants and restrictions contained in each of the Permitted Exceptions (relating to construction at, and operation of, the Leased Premises), and in compliance with all Design Standards in effect at the time of submittal of the Cargo Facility Plans for the construction and development of the Cargo Facility (including the Trunkline for the Fuel System, which Trunkline shall be part of the Cargo Facility) or any changes to the Design Standards thereafter required to comply with laws, ordinances, codes or other applicable governmental regulations or requirements.”

2. Section 5.2(p) is amended and restated in its entirety as follows (with subparagraphs (i) through (xxviii) remaining unchanged):

(p) The City intends to obtain reimbursement for the costs of designing and constructing the Taxilane NN Improvements from the FAA, and if the City is able to obtain such reimbursement from the FAA, the Tenant in the design of the Tenant Infrastructure Improvements Design Plans must comply with, and cause the Contractors and any subcontractors and suppliers to comply with, all applicable federal required contract provisions as required by law and as required by such grant agreement between City, as the grantee, and the FAA, as the granter for the Taxilane NN Improvements (collectively, the Federal Contract Requirements).

Section 2. The City and the Tenant desire to modify certain terms and conditions of the Phase III Lease to reflect the Lease Commencement Date.

Revisions To Section 3.1 Term Of Lease.

1. The first paragraph of Section 3.1 is amended and restated as follows:

(a) Term. (i) the Term of this Lease for the lease of the Leased Premises from the City to the Tenant shall be indivisible and non-severable, shall be for a period of thirty-five (35) years which thirty-five (35) year period shall commence on May 1, 2023 (the "Commencement Date") and shall expire at 11:59 P.M. Chicago time on the date immediately prior to the thirty-fifth (35<sup>th</sup>) anniversary date of the Commencement Date, or April 30, 2058 (the "Phase III Termination Date"), unless this Lease is terminated on an earlier date pursuant to the terms and provisions of this Lease (the "Term" or the "Phase III Term").

Section 3. The City and the Tenant desire to modify certain terms and conditions of the Phase III Lease to reflect the agreement of the parties that the Tenant shall be responsible for repairing, as needed, certain work, and the Tenant shall be entitled to receive rent credits equal to the costs incurred for such repairs.

Revisions To Section 4.7 Credits Against Combined Rent.

1. The first paragraph of Section 4.7 is amended and restated as follows:

Section 4.7 Credits Against Combined Rent. The City agrees that to the extent that the City has funds available to reimburse the Tenant for the Tenant's out of pocket costs for all or a portion of the costs of constructing the Tenant Infrastructure Improvements pursuant to the provisions of Section 2.16 of this Lease and the terms and provisions of the Utility and South Access Road Reimbursement Agreement, the Taxilane NN Reimbursement Agreement, and the Airside Perimeter Work Reimbursement Agreement, as applicable or for any environmental remediation of the Phase III Leased Premises pursuant to Section 13.13 of this Lease and the terms and provisions of the Environmental Remediation Work Reimbursement Agreement, that the City will do so on an ongoing basis pursuant to the terms and provisions of Section 2.16 and the terms and provisions of the Utility and South Access Road Reimbursement Agreement, the Taxilane NN Reimbursement Agreement, and the Airside Perimeter Work Reimbursement Agreement, as applicable and Section 13.13 and the terms and provisions of the Environmental Remediation Work Reimbursement Agreement, respectively. To the extent that the City does not have funds available to reimburse the Tenant for the construction of the Tenant Infrastructure Improvements or for any or all of the environmental remediation required to be performed at the Phase III Leased Premises under Section 13.13, the Tenant shall be entitled to credits against Combined Rent as provided in this Section 4.7. The Tenant shall further be entitled to credits against Combined Rent, but not to reimbursement regardless of availability of funds, for costs incurred pursuant to Section 5.3(d). The credits against Combined Rent described in this paragraph are defined as the "Phase III Rent Credits".

2. Section 4.7(a)(iv) is amended and restated in its entirety as follows:

(v) Out-of-pocket costs paid by the Tenant for the costs of materials, labor and other expenses incurred in connection with any work under Section 13.13 and Section 5.3(d) of this Lease, including the costs of any environmental engineer or consultant as permitted under Section 13.13 of this Lease.

Revisions To Section 5.3 Maintenance And Repair.

1. Section 5.3(d) is added in its entirety as follows:

d. Tenant, at its election, may repair, remediate, correct, fix or otherwise address any of the non-conforming work items documented in Burns & McDonnell's "Outstanding Non-Conformance Issues" report dated January 8, 2024, a copy of which is attached and incorporated into this Lease as (Sub)Exhibit R, in accordance with the terms and provisions of this Lease; provided, however, that the Tenant shall be required to repair, remediate, correct, fix or otherwise address such nonconforming work items to the extent so required by the other provisions of this Section 5.3. Tenant shall be entitled to credits against Combined Rent for cost incurred for such work pursuant to Section 4.7.

Section 4. Short Form Of Lease. On or after the Amendment Date, Landlord and Tenant shall amend the Memorandum of Lease recorded on \_\_\_\_\_, 2021, in the Recorder's Office of Cook County, Illinois, as Document Number \_\_\_\_\_, to reflect the material terms of this Amendment, including without limitation inclusion of the Phase III Expansion Premises in the Phase III Leased Premises, and shall record an amendment to the recorded Memorandum of Lease in accordance with Section 15.19 of the Phase III Lease.

Section 5. Representations And Warranties. The Tenant represents and warrants to the City as follows:

(a) All of the representations and warranties of the Tenant set forth in the Phase III Lease remain in full force and effect as if made on the date of this Amendment; no event of default under the Amended Lease has occurred and is continuing; the Amended Lease may be enforced in accordance with their terms by the City against the Tenant; the Tenant claims no defense or counterclaim against the City in connection with the enforcement of the Amended Lease and have no other claim against the Lender; and all of the statements set forth in the "Recitals" herein above are true and correct.

(b) The Tenant has full power and authority to execute, deliver and perform this Amendment and any other documents and agreements executed herewith. This Amendment and any other documents and agreements executed herewith are the legal and binding obligations of the Tenant enforceable in accordance with their respective terms, except as limited by bankruptcy, insolvency or other laws of general application relating to the enforcement of creditors' rights.

(c) No litigation, investigation or governmental proceeding is pending or, to the knowledge of the Tenant, threatened against or affecting them in any way.

(d) The execution, delivery and performance of this Amendment and the consummation of the transactions hereby contemplated will not conflict with any law, statute or regulation to which the Tenant is subject or any judgment, license, order or permit applicable to the Tenant or any indenture, mortgage, deed of trust or other instrument to which the Tenant is subject; and no consent, approval, authorization or order of any court, governmental authority or other person is required in connection with the execution, delivery or performance of this Amendment by the Tenant.

#### Section 6. Miscellaneous.

(a) Time. Time is of the essence of each provision of this Agreement.

(b) Survival. All representations and warranties of the parties contained in this Amendment will survive the execution and delivery of this Amendment.

(c) Binding Effect. This Amendment will inure to the benefit of and bind the respective successors and permitted assigns of the parties.

(d) Severability. If any provision of this Amendment is determined by a court having jurisdiction to be illegal, invalid or unenforceable under any present or future law, the remainder of this Amendment will not be affected thereby. It is the intention of the parties that if any provision is so held to be illegal, invalid or unenforceable, there will be added in lieu thereof a provision as similar in terms to such provision as is possible that is legal, valid and enforceable.

(e) Headings. The headings used in this Amendment are for ease in reference only and are not intended to affect the interpretation of this Agreement in any way.

(f) Amendment. Neither this Amendment nor any of the provisions hereof can be changed, waived, discharged or terminated, except by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

(g) Ratification. This Amendment supersedes, in all respects, all prior written or oral agreements between the Tenant, and the Lender relating to the modification of the Phase III Lease and there are no agreements, understandings, warranties or representations between the parties except as set forth herein.

(h) No Joint Venture. Nothing contained in this Amendment or in the Phase III Lease will be construed to constitute the city as a joint venturer with the Tenant or to constitute a partnership with the Tenant.

(i) Construction. The parties acknowledge that each party and each party's counsel have reviewed and revised this Amendment and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Amendment or any amendments, exhibits or schedules hereto.

(j) Counterparts. This Amendment may be executed in one or more counterparts, of which when so executed shall be deemed to be an original, but all of which when taken together shall constitute one and the same instrument.

(k) Applicable Laws. This Amendment shall be construed in accordance with the internal laws of the State of Illinois.

(l) Final Agreement. The Phase III Lease, as modified hereby, represents the entire expression of the parties with respect to the subject matter hereof on the date this Amendment is executed. The Phase III Lease, as modified hereby, may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten agreements between the parties. No modification, rescission, waiver, release or amendment of any of the provisions of this Amendment shall be made except by a written agreement signed by the City and the Tenant.

In Witness Whereof, The City has caused this Amendment to be executed on its behalf by the Mayor of the City of Chicago and attested by the City Clerk of the City of Chicago, pursuant to due authorization of the City Council, and the Tenant has caused this instrument to be executed on its behalf by its \_\_\_\_\_.

City of Chicago

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

Attest:

By: \_\_\_\_\_  
City Clerk

(Corporate Seal)

Execution Of This Amendment By The  
City Of Chicago Is Recommended  
By The Commissioner Of The  
Chicago Department Of Aviation

By: \_\_\_\_\_  
Commissioner of the Chicago  
Department of Aviation

Approved as to Form and Legality:

By: \_\_\_\_\_  
Chief Assistant Corporation Counsel

Illinois agent for services of process:

Aero Chicago II LLC, a Delaware  
limited liability company

By: RAL CAC LLC  
Its Managing Member

Name: CT Corporation System

Address: 208 South LaSalle Street  
Suite 814  
Chicago, Illinois 60604

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

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

Title: President

[(Sub)Exhibits "A-1", "I", "J" and "R" referred to in this First Amendment  
to Aero Chicago II LLC Cargo Facility Phase III Lease  
unavailable at time of printing.]

LEASE AGREEMENT WITH UNITED STATES CELLULAR CORPORATION AND  
FCA PARTNERS LLC FOR OFFICE SPACE.

[SO2024-0010971]

The Committee on Aviation submitted the following report:

CHICAGO, September 13, 2024.

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

Your Committee on Aviation, for which a meeting was held on Tuesday, September 10, 2024, recommends passage of ordinance (O2024-0010971) introduced on July 17, 2024, by the Honorable Brandon Johnson, Mayor, authorizing a lease agreement with United States Cellular Corporation and FCA Partners LLC for office space.

A recommendation of *Do Pass* was concurred in by a voice vote of all the committee members present, with no dissenting votes. The text of the lease agreement was inadvertently excluded from the ordinance.

Respectfully submitted,

(Signed) MATTHEW J. O'SHEA,  
*Chair.*

Aldersperson O'Shea moved to substitute for the proposed ordinance recommended by the Committee on Aviation. The Clerk called the roll and the motion to substitute *Prevailed* by yeas and nays as follows:

*Yeas* -- Alderspersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Thereupon, on motion of Alderperson O'Shea, the said proposed substitute ordinance was *Passed* by yeas and nays as follows:

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

The following is said ordinance as passed:

WHEREAS, The City of Chicago ("City") is a home rule unit of local government as defined in Article VII, Section 6(a) of the Illinois Constitution and, as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, The City owns and, through its Chicago Department of Aviation ("CDA"), operates the airports known as Chicago O'Hare International Airport ("O'Hare Airport") and Chicago Midway International Airport ("Midway Airport"); and

WHEREAS, CDA has determined that it is useful, desirable, and necessary to lease office space with convenient proximity to O'Hare Airport for use by CDA's employees, contractors and consultants in support of ongoing development and projects at O'Hare Airport, and

WHEREAS, CDA conducted market investigation to identify potential lease and sublease opportunities for furnished space with immediate availability and convenient proximity to O'Hare Airport and in response, received various proposals for potentially-compatible space for lease; and

WHEREAS, FCA Fund Chicago II LLC, a Delaware limited liability company ("Landlord"), is the owner of the real property known as United States Cellular Plaza, which is improved with three (3) multi-story office buildings with addresses of 8410 Bryn Mawr Avenue (the "8410 Building"), 8420 Bryn Mawr Avenue (the "8420 Building"), and 8430 Bryn Mawr Avenue, Chicago, Illinois (the "8430 Building") (collectively, the "Buildings"), and Landlord is presently marketing lease opportunities within the Buildings; and

WHEREAS, United States Cellular Corporation, a Delaware corporation, through its subsidiary, USCC Services LLC, a Delaware limited liability company, ("U.S. Cellular") is a current tenant within the Buildings and is presently marketing sublease opportunities for its leased space, including, without limitation, for the full 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup> floors in the 8420 Building, which collectively contain approximately 99,421 square feet of fully-furnished space (the "Premises"), said sublease opportunity for the Premises being immediately available through expiration of the U.S. Cellular lease on October 31, 2025; and

WHEREAS, Landlord desires to lease the Premises following expiration of Landlord's current lease with U.S. Cellular, for periods commencing on or after November 1, 2025; and

WHEREAS, CDA has reviewed the potential opportunities and proposals for furnished office space and determined that the Premises represents the most suitable opportunity with immediate availability and convenient proximity to O'Hare Airport, and that it is in the best interests of the City to enter into a sublease with U.S. Cellular for the City's immediate use of the Premises together with a lease with Landlord for the City's continued use of the Premises following expiration of the foregoing sublease; now, therefore,

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

SECTION 1. The above recitals are hereby incorporated by reference as if fully set forth herein and adopted as findings of the City Council.

SECTION 2. The Commissioner of CDA, or a designee of the Commissioner, is hereby authorized, with the approval of the City's Corporation Counsel as to form and legality, to negotiate, execute and deliver a sublease for the Premises, in substantially the form attached hereto as Exhibit A, together with a subsequent lease for the Premises, in substantially the form attached hereto as Exhibit B, and such other supporting documents as may be necessary or appropriate to carry out and comply with the provisions of the sublease or the lease, with such changes, deletions and insertions as shall be approved by the persons executing such lease and sublease.

SECTION 3. If any provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

SECTION 4. All other ordinances, resolutions, motions, or orders of the City Council in conflict with this ordinance are hereby amended to the extent of such conflict.

SECTION 5. This ordinance shall be effective upon its passage and approval.

Exhibits "A" and "B" referred to in this ordinance read as follows:

*Exhibit "A".  
(To Ordinance)*

*Sublease Agreement.*

This Sublease Agreement ("**Sublease**") is made effective as of the \_\_\_ day of \_\_\_\_\_, 2024, (the "**Effective Date**") by and between USCC Services, LLC, a Delaware limited liability company ("**Sublandlord**") and the City of Chicago, a municipal corporation and home rule unit of local government organized and existing under Article VII, Sections 1 and 6(a), respectively, of the 1970 Constitution of the State of Illinois ("**Subtenant**") with reference to the following facts:

A. FCA Fund Chicago II, LLC, a Delaware limited liability company ("**Master Landlord**") and Sublandlord entered into that certain Second Amended and Restated Office Lease dated April 1, 2016 ("**Original Master Lease**"), as amended by that certain First Amendment to Second Amended and Restated Office Lease dated as of September 15, 2017 ("**First Amendment to Master Lease**"), (collectively, the "**Master Lease**"), whereby Master Landlord leased to Sublandlord and Sublandlord leased from Master Landlord those certain premises consisting of approximately 212,428 rentable square feet located at 8410 West Bryn Mawr Avenue, Chicago, Illinois and approximately 119,369 rentable square feet located at 8420 West Bryn Mawr Avenue, Chicago, Illinois, as further set forth in the Master Lease (collectively, the "**Master Premises**").

B. Sublandlord agrees to sublease to Subtenant, and Subtenant agrees to sublease from Sublandlord, a portion of the Master Premises consisting of approximately 99,421 rentable square feet which are the entire 5th through 9th floors of the 8420 Building (the "**Premises**") upon the terms and conditions set forth in this Sublease.

**AGREEMENT**

1. **Sublease of Premises.** Subject to the terms and conditions of this Sublease, Sublandlord hereby subleases to Subtenant and Subtenant hereby subleases from Sublandlord the Premises.

2. **Master Lease and Other Agreements.**

2.1 **Subordinate to Master Lease.** This Sublease is subject and subordinate to all of the terms and conditions of the Master Lease. A redacted copy of the Master Lease is attached hereto as **Exhibit A** and incorporated herein by this reference.

(a) Subtenant hereby assumes and agrees to perform the obligations of "Tenant" under the Master Lease with respect to the Premises as more particularly set forth hereafter, excepting therefrom only those terms and conditions which have been redacted from Exhibit A. Unless otherwise defined, all capitalized terms used herein shall have the same meanings as given them in the Master Lease. Subtenant shall not commit or permit to be committed any act or omission which would violate any term or condition of the Master Lease. Subtenant shall neither do nor permit anything to be done which would cause the Master Lease to be terminated or forfeited by reason of any right of termination or forfeiture reserved or vested in Master Landlord under the Master Lease, and Subtenant shall indemnify and hold Sublandlord harmless from and against all claims, liabilities, judgments, costs, demands, penalties, expenses, and damages of any kind whatsoever, including, without limitation, attorneys' fees, consultants' fees and costs and court costs, ("**Claims**") by reason of any failure on the part of Subtenant to perform any of the obligations of "Tenant" under the Master Lease which Subtenant has become

obligated hereunder to perform, and such indemnity and hold harmless shall survive the expiration or sooner termination of this Sublease.

(b) Sublandlord shall continue performing the obligations of "Tenant" under the Master Lease with respect to all portions of the Master Premises other than the Premises hereunder and Sublandlord shall not commit or permit to be committed any act or omission which would violate any term or condition of the Master Lease. Sublandlord shall neither do nor permit anything to be done which would cause the Master Lease to be terminated or forfeited by reason of any right of termination or forfeiture reserved or vested in Master Landlord under the Master Lease, and Sublandlord shall indemnify and hold Subtenant harmless from and against all Claims by reason of any failure on the part of Sublandlord to perform any of the obligations of "Tenant" under the Master Lease which are not otherwise expressly assumed by Subtenant hereunder, and such indemnity and hold harmless shall survive the expiration or sooner termination of this Sublease.

(c) Sublandlord and Subtenant shall promptly deliver to the other copies of any and all notices or other correspondence received by Subtenant or Sublandlord from Landlord that might affect Subtenant or Sublandlord in any manner. This Sublease shall also be subject to any amendments and supplements to the Master Lease hereafter made between Master Landlord and Sublandlord, provided that Sublandlord provides written notice and a copy of any such amendment or supplement to Subtenant, and further provided that any such amendment or supplement will not prevent or adversely affect Subtenant's use of the Premises in accordance with the terms of this Sublease or increase the obligations of Subtenant or decrease its rights under this Sublease.

(d) Subtenant represents and warrants to Sublandlord that it has read and is familiar with the redacted Master Lease. Sublandlord represents and warrants to Subtenant that it is not aware of any pending action, litigation, or other proceeding or claim against Sublandlord with respect to the Premises or Sublandlord's right or interest as Tenant under the Master Lease, nor have any such matters been threatened and Sublandlord is not in material default in the performance of any of its obligations under the Master Lease, nor aware of any delinquency in performance of Sublandlord's obligations under the Master Lease which may give rise to a material default by lapse of time.

2.2 Applicable Provisions. All of the terms and conditions contained in the Master Lease as they may apply to the Premises are incorporated herein and shall be terms and conditions of this Sublease, except those directly contradicted by the terms and conditions contained in this Sublease. Each reference therein to "Landlord", "Tenant", "Premises" and "Lease" to be deemed to refer to Sublandlord, Subtenant, Premises and Sublease, respectively, as appropriate.

2.3 Modifications. For the purposes of incorporation herein, the terms of the Master Lease are subject to the following additional modifications:

(a) Unless otherwise expressly provided herein, in all provisions of the Master Lease (under the terms thereof and without regard to modifications thereof for purposes of incorporation into this Sublease) requiring the approval or consent of Master Landlord, Subtenant

shall be required to obtain the approval or consent of both Sublandlord and Master Landlord, under the same standards of consent as set forth in the Master Lease and the approval of Sublandlord may be withheld if Master Landlord's consent is not obtained.

(b) In all provisions of the Master Lease requiring "Tenant" to submit, exhibit to, supply or provide Master Landlord with evidence, certificates, or any other matter or thing, Subtenant shall be required to submit, exhibit to, supply or provide, as the case may be, the same to both Master Landlord and Sublandlord.

(c) Sublandlord shall have no obligation to restore or rebuild any portion of the Premises after any destruction or taking by eminent domain or to maintain, repair, restore or control any portion of the Building or Project.

(d) Sublandlord shall not be obligated to perform those obligations of Master Landlord which Sublandlord cannot immediately and unilaterally perform as "Landlord", nor shall Sublandlord be deemed to have adopted as its own any representations made by Master Landlord in the Master Lease.

(e) Sublandlord shall not be obligated to maintain any building systems, any Common Areas or any other repair or maintenance obligations which are Master Landlord's obligations under the Master Lease.

(f) Sublandlord shall have no obligation to construct or pay for any improvements.

(g) In all provisions of the Master Lease requiring "Tenant" to designate Master Landlord as an additional or named insured on its insurance policy, Subtenant shall be required to so designate Master Landlord, Sublandlord and any individual, party or entity as required by Master Landlord or Sublandlord on its insurance policy.

(h) If and to the extent that Sublandlord's rental obligation is abated or reduced pursuant to the Master Lease due to a casualty, condemnation or other interference with the use of the Premises, the Rent hereunder shall be abated or reduced in the same proportion and period as the abatement or reduction under the Master Lease on a proportionate basis based upon the rentable square footage of the Premises divided by the rentable square footage of the Master Premises. Subtenant shall not be entitled to any further abatement or reduction in Rent.

(i) Whenever in the Master Lease a time is specified for the giving of any notice or the making of any demand by the "Tenant" thereunder, such time is hereby changed, for the purpose of this Sublease only, by adding two (2) business days thereto and whenever in the Master Lease a time is specified for the giving of any notice or the making of any demand by the "Landlord", such time is hereby changed, for the purpose of this Sublease only, by subtracting two (2) business days therefrom. It is the purpose and intent of the foregoing provisions to provide Sublandlord with time within which to transmit to Master Landlord any notices or demands received from Subtenant and to transmit to Subtenant any notices or demands received from Master Landlord.

2.4 Exclusions. Notwithstanding the terms of Section 2.2 above, Subtenant shall have no rights or obligations under any of the following provisions of the Master Lease: (i) any rights or options to expand, extend, renew or terminate the Master Lease, this Sublease or the Premises, and (ii) any rights of first offer, rights of first negotiation, or similar rights, or any rights to any tenant improvement allowance. In addition, the following provisions of the Master Lease are NOT incorporated herein: the Basic Lease Provisions of the Master Lease; Sections 2.01-2.03; 3.01-3.02; 4; parenthetical at the end of 5.02; the last sentence of 5.04; the first two (2) sentences of 6.01; 6.03C; 6.04; 7; the sentence beginning “Notwithstanding” in 8.01; 10.03; the last two (2) sentences of 11.02, 12.05 14; 22.01-22.08; 23; the language “Landlord agrees to” through the end of 24; 25; 26.05; Subtenant shall have the right to 25 Reserved Parking Spaces and the language from “Notwithstanding” to the end of 27.02A; Subtenant shall have the right to 4 Tenant Visitor Parking Spaces in 27.03; 28-39; 41; 43 and Exhibits A, B, E, F, I, J, K, L, M, O, P, Q and R and First Amendment to Master Lease. All of the incorporated terms of the Master Lease as referenced and qualified above along with all of the following terms and conditions set forth in this document shall constitute the complete terms and conditions of this Sublease.

2.5 Obligations of Sublandlord. Notwithstanding anything herein contained, the only services or rights to which Subtenant is entitled hereunder are those to which Sublandlord is entitled under the Master Lease, and for all such services and rights Subtenant shall look solely to the Master Landlord under the Master Lease, and the obligations of Sublandlord hereunder shall be limited to using its reasonable good faith efforts to obtain the performance by Master Landlord of its obligations, provided Subtenant shall reimburse Sublandlord for all reasonable costs incurred by Sublandlord in such efforts. Sublandlord shall have no liability to Subtenant or any other person for damage of any nature whatsoever as a result of the failure of Master Landlord to perform said obligations except for Master Landlord’s termination of Sublandlord’s interest as “Tenant” under the Master Lease in the event of Sublandlord’s breach of the Master Lease (without cause of Subtenant).

2.6 Exercise of Sublandlord Termination Option. Notwithstanding anything in this Sublease to the contrary, it is hereby acknowledged, understood, and agreed that this Sublease and the obligations of each of Sublandlord and Subtenant hereunder are conditioned and contingent upon Sublandlord validly exercising its Termination Option (as defined in the Master Lease) pursuant to, and in accordance with, Article 28 (Termination Option) of the Master Lease, including, without limitation, (a) Sublandlord’s delivery of Tenant’s Termination Notice (as defined in the Master Lease) to the Master Landlord, with a copy to Subtenant, each on or before October 31, 2024 (the “**Contingency Date**”), and (b) Sublandlord’s payment of the Termination Fee (as defined in the Master Lease) to Master Landlord as provided thereunder. For avoidance of doubt, Tenant’s Termination Notice shall confirm, at minimum, Sublandlord’s election to terminate the Master Lease in relation to the Premises under this Sublease, effective as of the Expiration Date of this Sublease (as defined hereinafter). In the event that Sublandlord fails to deliver Tenant’s Termination Notice, including the aforesaid details applicable to the Premises under this Sublease, to the Master Landlord and Subtenant, on or before the Contingency Date, Subtenant shall have the right and option, upon written notice delivered to Sublandlord, to terminate this Sublease.

3. **Term.**

3.1 **Initial Term.** The term of this Sublease (“**Term**”) shall commence on November 1, 2024 (“**Commencement Date**”), and shall expire on October 31, 2025 (“**Expiration Date**”), unless sooner terminated pursuant to any provision of the Master Lease applicable to the Premises or the terms of this Sublease.

3.2 **Sublandlord’s Inability to Deliver the Premises.** In the event Sublandlord is unable to deliver possession of the Premises on or before the Commencement Date, this Sublease shall not be void or voidable, nor shall and the Term hereof be extended by such delay, and Sublandlord shall not be liable for any damage caused thereby other than Subtenant shall receive one (1) day of rent abatement for each one (1) day of delay in Sublandlord’s delivery of possession following the Commencement Date. Subtenant may enter the Premises between October 1, 2024 until the Commencement Date for the sole purpose of inspecting, space-planning and installing its furniture, fixtures and equipment and Subtenant shall be subject to all the covenants and conditions hereof except the obligation to pay Base Rent (as hereinafter defined) until the Commencement Date.

4. **Rent.**

4.1 **Base Rent.** Subtenant shall pay to Sublandlord each month during the term of this Sublease, rent, in advance, on Subtenant’s execution hereof for the first month and on or before the 1st of each month thereafter the amount of \$24.50 per rentable square foot per month (which is \$202,984.54 per month) (“**Base Rent**”).

4.2 **No Expenses.** Subtenant shall not be required to reimburse Sublandlord for any Taxes and Operating Expenses charged by Master Landlord pursuant to the Master Lease; provided however, Subtenant shall be responsible to pay for the cost of electrical usage provided to the Premises, which amount shall be paid within thirty (30) days from invoice from Sublandlord. Sublandlord shall separately meter the electricity prior to the Commencement Date.

4.3 **Additional Services.** If Subtenant shall procure any additional services from Master Landlord, including, but not limited to, after-hours HVAC, or if additional rent or other sums are incurred under the Master Lease as a result of Subtenant’s use or occupancy of the Premises, Subtenant shall make such payment to Sublandlord or Master Landlord, as Sublandlord shall direct.

4.4 **Rent.** All amounts set forth in this Section 4 and any other rent or other sums payable by Subtenant under this Sublease shall constitute and be due as additional rent. Base Rent, and additional rent shall herein be referred to as “**Rent**”. Rent for partial months at the commencement or termination of this Sublease shall be prorated. Rent shall be paid to the Sublandlord at its notice address noted herein, or at any other place Sublandlord may from time to time designate by written notice mailed or delivered to Subtenant.

5. **Rider.** The Rider attached hereto and made a part hereof as **Exhibit B** is made a part of this Sublease. The term “Landlord” set forth in the Rider shall, for purposes of this Sublease, mean Sublandlord and not the Master Landlord under the Master Lease.

6. **Premises.**

6.1 **Condition of the Premises.** Subtenant acknowledges that as of the Commencement Date, Subtenant shall have inspected the Premises, and every part thereof, and by taking possession shall have acknowledged that the Premises is in good condition and without need of repair, and Subtenant accepts the Premises “as is”, Subtenant having made all investigations and tests it has deemed necessary or desirable in order to establish to its own complete satisfaction the condition of the Premises. Subtenant accepts the Premises in their condition existing as of the Commencement Date, subject to all applicable zoning, municipal, county and state laws, ordinances, and regulations governing and regulating the use of the Premises and any covenants or restrictions of record. Subtenant acknowledges that neither Sublandlord nor Master Landlord have made any representations or warranties as to the condition of the Premises or its present or future suitability for Subtenant’s purposes.

6.2 **Maintenance and Surrender.** Subtenant shall keep the Premises in good order and repair and perform all maintenance, repair and replacement obligations of “Tenant” required under the Master Lease. Subtenant shall surrender the Premises in the same condition as required of “Tenant” under the Master Lease. Notwithstanding anything to the contrary, Subtenant shall have no obligation to remove any alterations, improvements or additions to the Premises which exist as of the Effective Date.

6.3 **Furniture.** Subtenant may use certain furniture, fixtures and equipment located in the Premises as of the Commencement Date (“**Furniture**”). Subtenant accepts the Furniture in its “as is” condition and Sublandlord makes no warranty as to the condition of the Furniture or its present or future suitability for Subtenant’s purposes. Subtenant shall maintain the Furniture in good condition throughout the Term and, if necessary, shall repair any damage to the Furniture. Subtenant’s insurance shall include coverage of the Furniture. Sublandlord represents and warrants that it is the owner of the Furniture and that upon the expiration or earlier termination of this Sublease, Sublandlord shall convey the Furniture, free and clear of all liens, charges, and encumbrances, to Subtenant for \$1.00 via a bill of sale assignment, in the form and manner attached as **Exhibit C** attached hereto and incorporated by reference. Notwithstanding the foregoing, in the event Subtenant terminates this Sublease pursuant to rights stated in Section 2.6, Subtenant shall not accept conveyance of the Furniture and all Furniture shall remain the property of Sublandlord. Subtenant shall be required to remove the Furniture from the Premises prior to the Expiration Date unless Master Landlord waives the requirement. Sublandlord has authority to authorize use and transfer of the Furniture as provided for in this Section 6.3.

7. **Insurance.**

7.1 **Subtenant’s Insurance.** With respect to the “Tenant’s” insurance under the Master Lease, the same is to be provided by Subtenant as described in the Master Lease, and such policies of insurance shall include as additional insureds Master Landlord, Sublandlord, any individual, party or entity as required by Master Landlord and any individual, party or entity as

required by Master Landlord or Sublandlord. Subject to Master Landlord's consent, Subtenant may elect to self-insure to meet the requirements provided for in the Master Lease, and in the event of such election, Subtenant shall provide a self-insurance letter to Master Landlord and Sublandlord. Notwithstanding the foregoing, in no event shall Subtenant have any obligations under the Master Lease in connection with any insurance, indemnification, hold harmless or release (nor shall Subtenant be deemed to have taken on any such obligations by the incorporation of the Master Lease by reference into this Sublease) insofar as the same are applicable to any portion of the Master Premises, save and except for the Premises and any common areas.

7.2 Waiver of Subrogation. With respect to the waiver of subrogation contained in the Master Lease, such waiver shall be deemed to be modified to constitute an agreement by and between Sublandlord and Subtenant.

8. Use and Alterations.

8.1 Use of Premises. Subtenant shall use the Premises only for those purposes permitted in the Master Lease.

8.2 Quiet Enjoyment. So long as there is no default by Subtenant which remains uncured (beyond any applicable notice and cure period), Subtenant shall peaceably and quietly have, hold, and enjoy the Premises and reasonable access thereto during the Term, free from any unreasonable interference by Sublandlord or anyone claiming through Sublandlord, subject to the terms and conditions of this Sublease.

8.3 Alterations. Subtenant shall not make any Alterations (to the Premises without the express prior written consent of Sublandlord and of Master Landlord (to the extent Master Landlord's consent is required under the Master Lease), which consent by Sublandlord shall not be unreasonably withheld, but may be withheld if Master Landlord withholds its consent to such Alteration. Upon Sublandlord's receipt of a request from Subtenant for consent to proposed Alterations, Sublandlord will promptly forward such request, together with attendant plans for such Alterations, to Master Landlord for review. Sublandlord agrees to defer to Master Landlord's review of plans for any proposed Alterations and Sublandlord will not undertake duplicative review of such plans separate from Master Landlord unless the proposed Alterations implicate modification to Sublandlord's Furniture, in which event, Sublandlord's review shall be limited to impacts to said Furniture. Subject to the foregoing, Subtenant shall reimburse Sublandlord for all costs which Sublandlord may incur in connection with reviewing Subtenant's plans for such Alteration, including, without limitation, reasonable attorneys' fees and costs and any fees or costs charged by Master Landlord. On termination of this Sublease, if required by Master Landlord, Subtenant shall remove any or all of such Alterations and restore the Premises (or any part thereof) to the same condition as of the date Sublandlord provided Subtenant possession of the Premises to Subtenant; provided however, if this Sublease terminates, for any reason, prior to the expiration of the Master Lease, then Sublandlord shall have the right to require Subtenant to remove such Alterations. Should Subtenant fail to remove such Alterations and restore the Premises on termination of this Sublease unless as otherwise set forth above, Sublandlord shall have the right to do so, and charge Subtenant therefor, plus a service charge of ten percent (10%) of the costs incurred by Sublandlord in addition to any costs or expenses charged by Master Landlord under the Master Lease.

8.4 Permitted Alterations. Subtenant shall be entitled to perform Permitted Alterations (as defined in the Master Lease) without Sublandlord's and Master Landlord's consent in accordance with Section 10.2 of the Master Lease.

8.5 Signage. Subject to Landlord's Master Consent and the terms and conditions of the Master Lease, Subtenant may install signage on the entry to the Premises and the general directory.

9. Assignment and Subletting.

9.1 Consent Required. Subtenant shall not assign this Sublease or any interest therein nor shall Subtenant sublet, license, encumber or permit the Premises or any part thereof to be used or occupied by others (collectively "**Transfer**"), without Sublandlord's and Master Landlord's prior written consent. Sublandlord's consent shall not be unreasonably withheld; provided, however, Sublandlord's withholding of consent shall in all events be deemed reasonable if for any reason Master Landlord's consent is not obtained. The consent by Sublandlord and Master Landlord to any Transfer shall not waive the need for Subtenant (and Subtenant's transferees) to obtain the consent of Sublandlord and Master Landlord to any different or further Transfer. All conditions and standards set forth in the Master Lease regarding Transfers shall apply.

9.2 Excess Rent. All rent or other economic consideration payable to Subtenant as a result of such Transfer which exceeds, in the aggregate, (i) the total rent which Subtenant is obligated to pay Sublandlord under this Sublease (prorated to reflect obligations allocable to any portion of the Premises sub-subleased), (ii) any reasonable brokerage commissions, reasonable attorney fees, advertising costs not included in the brokerage commissions and tenant improvement allowances actually paid by Tenant in connection with such Transfer amortized on a straight use basis over the term of the assignment or sublease, and (iii) any excess rent paid to Master Landlord, shall be paid to Sublandlord within ten (10) days after receipt thereof as additional rent under this Sublease, without affecting or reducing any other obligations of Subtenant hereunder.

9.3 Form of Document. Every Transfer shall (i) recite that it is and shall be subject and subordinate to the provisions of this Sublease, that the transferee assumes Subtenant's obligation hereunder, that the termination of this Sublease shall at Sublandlord's sole election, constitute a termination of every such Transfer, and (ii) contain such other terms and conditions as shall be reasonably requested by Sublandlord.

9.4 No Release of Subtenant. Regardless of Sublandlord's consent, no Transfer shall release Subtenant of Subtenant's obligation or alter the primary liability of Subtenant to pay the Rent and to perform all other obligations to be performed by Subtenant hereunder. The acceptance of Rent by Sublandlord from any other person shall not be deemed to be a waiver by Sublandlord of any provision hereof. In the event of default by any transferee, in the performance of any of the terms hereof, Sublandlord may proceed directly against Subtenant without the necessity of exhausting remedies against such transferee.

10. **Default.**

10.1 **Default Described.** The occurrence of any of the following shall constitute a “**Default**” by Subtenant: (i) failure to pay Rent or any other amount within five (5) days after written notice that such payment is past due; (ii) all those items of default set forth in the Master Lease where the obligation is incorporated in this Sublease which remain uncured after two thirds (2/3) of the cure period provided in the Master Lease; or (iii) Subtenant’s failure to perform timely and remain uncured after thirty (30) days written notice of the default, any other provision of this Sublease, unless Subtenant is diligently pursuing a cure, in which case such 30-day period shall be extended for such additional time as is reasonably necessary while, and for so long as, Subtenant is so diligently pursuing a cure, not to exceed ninety (90) days following such initial written notice.

10.2 **Sublandlord’s Remedies.** In the event of a Default, Sublandlord shall have the remedies set forth in the Master Lease as if Sublandlord is Master Landlord. These remedies are not exclusive; they are cumulative and in addition to any remedies now or later allowed by law.

10.3 **Subtenant’s Right to Possession Not Terminated.** During the period Subtenant is in Default, Sublandlord may enter the Premises and relet them, or any part of them, to third parties for Subtenant’s account and alter or install locks and other security devices at the Premises. Subtenant shall be liable immediately to Sublandlord for all costs Sublandlord incurs in reletting the Premises, including, without limitation, attorneys’ fees, brokers’ commissions, expenses of remodeling the Premises required by the reletting, and like costs. Reletting may be for a period equal to, shorter or longer than the remaining term of this Sublease and rent received by Sublandlord shall be applied to (i) first, any indebtedness from Subtenant to Sublandlord other than rent due from Subtenant; (ii) second, all costs incurred by Sublandlord in reletting, including, without limitation, brokers’ fees or commissions and attorneys’ fees, the cost of removing and storing the property of Subtenant or any other occupant, and the costs of repairing, altering, maintaining, remodeling or otherwise putting the Premises into condition acceptable to a new Subtenant or Subtenants; (iii) third, rent due and unpaid under this Sublease. After deducting the payments referred to in this Section 10.3, any sum remaining from the rent Sublandlord receives from reletting shall be held by Sublandlord and applied in payment of future rent and other amounts as rent and such amounts become due under this Sublease. In no event shall Subtenant be entitled to any excess rent received by Sublandlord.

10.4 **All Sums Due and Payable as Rent.** Subtenant shall also pay without notice, or where notice is required under this Sublease, immediately upon demand without any abatement, deduction, or setoff, as additional rent all sums, impositions, costs, expenses, and other payments which Subtenant in any of the provisions of this Sublease assumes or agrees to pay, and, in case of any nonpayment thereof, Sublandlord shall have, in addition to all other rights and remedies, all the rights and remedies provided for in this Sublease or by law in the case of nonpayment of rent.

10.5 **No Waiver.** Sublandlord may accept Subtenant’s payments without waiving any rights under the Sublease, including rights under a previously served notice of default. No payment by Subtenant or receipt by Sublandlord of a lesser amount than any installment of rent due or other sums shall be deemed as other than a payment on account of the amount due, nor shall any endorsement or statement on any check or accompanying any check or payment be deemed

an accord and satisfaction; and Sublandlord may accept such check or payment without prejudice of Sublandlord's right to recover the balance of such rent or other sum or pursue any other remedy provided in this Sublease, at law or in equity. If Sublandlord accepts payments after serving a notice of default, Sublandlord may nevertheless commence and pursue an action to enforce rights and remedies under the previously served notice of default without giving Subtenant any further notice or demand. Furthermore, Sublandlord's acceptance of rent from Subtenant when the Subtenant is holding over without express written consent does not convert Subtenant's tenancy from a tenancy at sufferance to a month-to-month tenancy. No waiver of any provision of this Sublease shall be implied by any failure of Sublandlord to enforce any remedy for the violation of that provision, even if that violation continues or is repeated. Any waiver by Sublandlord of any provision of this Sublease must be in writing. Such waiver shall affect only the provisions specified and only for the time and in the manner stated in the writing. No delay or omission in the exercise of any right or remedy by Sublandlord shall impair such right or remedy or be construed as a waiver thereof by Sublandlord. No act or conduct of Sublandlord, including, without limitation the acceptance of keys to the Premises shall constitute acceptance or the surrender of the Premises by Subtenant before the Expiration Date. Only written notice from Sublandlord to Subtenant of acceptance shall constitute such acceptance or surrender of the Premises. Sublandlord's consent to or approval of any act by Subtenant which requires Sublandlord's consent or approval shall not be deemed to waive or render unnecessary Sublandlord's consent to or approval of any subsequent act by Subtenant.

10.6 Sublandlord Default. For purposes of this Sublease, Sublandlord shall not be deemed in default hereunder unless and until Subtenant shall first deliver to Sublandlord thirty (30) days' prior written notice, and Sublandlord shall fail to cure said default within said thirty (30) day period, or in the event Sublandlord shall reasonably require in excess of thirty (30) days to cure said default, shall fail to commence said cure with said thirty (30) day period, and thereafter diligently prosecute the same to completion. In the event that Sublandlord fails to cure any default within the notice and cure periods set forth above to Sublandlord and after a second written notice and ten (10) day cure period, Subtenant shall be entitled to bring suit for the collection of any amounts for which Sublandlord may be in default, or for the performance of any other covenant or agreement of Sublandlord, or to pursue any other remedy allowed at law or in equity. Subtenant may also elect to cure said Sublandlord default (including, without limitation, the payment of any delinquent amounts), at Subtenant's commercially reasonable expense and in such event, Sublandlord shall reimburse Subtenant for the actual and reasonable out-of-pocket cost to perform such cure within thirty (30) days after Sublandlord's receipt of written demand for payment together with reasonable supporting documentation therefor.

10.7 Consent of Master Landlord. Subtenant acknowledges that the Master Lease requires that Sublandlord obtain the consent of Master Landlord to any subletting by Sublandlord. This Sublease shall not be effective unless and until Master Landlord signs a consent to this subletting satisfactory to Sublandlord. Subtenant will sign such consent if required by Master Landlord as reasonably presented by Master Landlord.

11. Notices and Payments. Any notice, demand, request, consent, approval, submittal or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class certified mail or commercial overnight delivery service. Such Notice shall be effective on the date of actual

receipt (in the case of personal service or commercial overnight delivery service) or two days after deposit in the United States mail, to the following addresses:

To Sublandlord: USCC Services, LLC  
8410 West Bryn Mawr Avenue  
Chicago, IL 60631  
Attn: Corporate Real Estate Department

With a copy to:

Sidley Austin LLP  
One South Dearborn Street  
Chicago, IL 60603  
Attention: Elizabeth McCloy, Esq.

To Subtenant: City of Chicago  
Department of Aviation  
10510 W. Zemke Blvd. 2<sup>nd</sup> Floor  
PO Box 66848 Chicago, Illinois 60666  
Attn: Commissioner

With a copy to:

City of Chicago  
c/o Department of Aviation  
10510 W Zemke Blvd., 2<sup>nd</sup> Floor  
PO Box 66848 Chicago, Illinois 60666  
Attn: General Counsel

And a copy to:

Deputy Corporation Counsel – Aviation  
Environmental, Regulatory and Contracts  
City of Chicago Department of Law  
2 N LaSalle St., Ste. 540  
Chicago, Illinois 60602

Either party may revise its notice address by written notice to the other party.

12. **Holding Over.** Subtenant shall have no right to holdover. If Subtenant does not surrender and vacate the Premises at the expiration or earlier termination of this Sublease, Subtenant shall be a tenant at sufferance, or at the sole election of Sublandlord, a month to month tenancy, and the parties agree in either case that the reasonable rental value, if at sufferance, or the Rent if a month to month tenancy shall be Rent at the greater of (1) the monthly rate of one hundred fifty percent (150%) of the monthly Rent set forth in Section 4, or (2) the rate of one hundred fifty percent (150%) of any and all Rent due to Master Landlord from Sublandlord under the holdover provisions of the Master Lease, including, but not limited to, Operating Expenses and Taxes due and payable during such holdover period of time. In connection with the foregoing, Sublandlord and Subtenant agree that the reasonable rental value of the Premises following the expiration or

earlier termination of the Sublease shall be the amounts set forth above per month. Sublandlord and Subtenant acknowledge and agree that, under the circumstances existing as of the Effective Date, it is impracticable and/or extremely difficult to ascertain the reasonable rental value of the Premises on the Expiration Date and that the reasonable rental value established herein is a reasonable estimate of the damage that Sublandlord would suffer as the result of the failure of Subtenant to timely surrender possession of the Premises. Notwithstanding the foregoing, and in addition to all other rights and remedies on the part of Sublandlord if Subtenant fails to surrender the Premises upon the termination or expiration of this Sublease, in addition to any other liabilities to Sublandlord accruing therefrom, Subtenant shall indemnify, defend and hold Sublandlord harmless from all Claims resulting from such failure, including, without limitation, any Claims by any third parties based on such failure to surrender and any lost profits to Sublandlord resulting therefrom.

13. **Miscellaneous.**

13.1 **Conflict with Master Lease; Interpretation.** To the maximum extent possible, the provisions of the Master Lease shall be construed as consistent with and complementary to the provisions of this Sublease. In the event of any conflict between the provisions of the Master Lease and this Sublease, the Master Lease shall govern and control except to the extent directly contradicted by the terms of this Sublease. No presumption shall apply in the interpretation or construction of this Sublease as a result of Sublandlord having drafted the whole or any part hereof.

13.2 **Remedies Cumulative.** The rights, privileges, elections, and remedies of Sublandlord in this Sublease, at law, and in equity are cumulative and not alternative.

13.3 **Waiver of Redemption.** Subtenant hereby expressly waives any and all rights of redemption to which it may be entitled by or under any present or future laws in the event Sublandlord shall obtain a judgment for possession of the Premises.

13.4 **Damage and Destruction; Condemnation.** In the event of any damage, destruction, casualty, condemnation or threat of condemnation affecting the Premises, Rent payable hereunder shall be abated but only to the extent that Rent is abated under the Master Lease with respect to the Premises. Subtenant shall have no right to terminate this Sublease in connection with any damage, destruction, casualty, condemnation or threat of condemnation except to the extent the Master Lease is also terminated as to the Premises or any portion thereof.

13.5 **Effect of Conveyance.** As used in this Sublease, the term "Sublandlord" means the holder of the "Tenant's" interest under the Master Lease. In the event of any assignment or transfer of the "Tenant's" interest under the Master Lease, which assignment or transfer may occur at any time during the Term hereof in Sublandlord's sole discretion, Sublandlord shall be and hereby is entirely relieved of the future performance of all covenants and obligations of Sublandlord hereunder if such future performance is assumed by the transferee in a writing and a copy thereof is delivered to Subtenant. Sublandlord may transfer and deliver any security of Subtenant to the transferee of the Tenant's interest under the Master Lease, and thereupon Sublandlord shall be discharged from any further liability with respect thereto if such transferee

assumes in writing Sublandlord's obligations with regard to such security in a writing delivered to Subtenant.

13.6 Broker's Commission. Sublandlord and Subtenant represent and warrant to each other that each has dealt with the following brokers Newmark ("**Sublandlord's Broker**") and Avison Young ("**Subtenant's Broker**", collectively the "**Brokers**") and with no other agent, finder, or other such person with respect to this Sublease and each agrees to indemnify and hold the other harmless from any Claims asserted against the other by any broker, agent, finder, or other such person not identified above as Sublandlord's Broker or Subtenant's Broker. The Commission to the Brokers is pursuant to separate agreement.

13.7 Offer. Preparation of this Sublease by either Sublandlord or Subtenant or either party's agent and submission of same to Sublandlord or Subtenant shall not be deemed an offer to Sublease. This Sublease is not intended to be binding until executed and delivered by all Parties hereto.

13.8 Due Authority. If Subtenant or Sublandlord, as the case may be, executes this Sublease as a corporation, limited partnership, limited liability company, or any other type of entity, Subtenant or Sublandlord, as the case may be, does hereby represent and warrant to the other party hereto that (a) Subtenant or Sublandlord, as the case may be, is a duly organized and validly existing corporation, limited partnership, limited liability company, or other type of entity, as the case may be, (b) Subtenant or Sublandlord, as the case may be, is qualified to do business in the state where the Premises is located, (c) Subtenant or Sublandlord, as the case may be, has full right, power, and authority to enter into this Sublease, and (d) each person signing on behalf of Subtenant or Sublandlord, as the case may be, is authorized to do so. Upon Sublandlord's or Subtenant's request, as the case may be, the requested party shall provide to the requesting party evidence reasonably satisfactory to the requesting party confirming the foregoing representations and warranties.

13.9 Multiple Counterparts. This Sublease may be executed in two counterparts, each of which shall be deemed an original and both of which together shall constitute one and the same agreement. This Sublease may be executed by a party's signature through DocuSign or transmitted by electronic mail in pdf format ("**pdf**"), and copies of this Sublease executed and delivered by means of DocuSign or pdf signatures shall have the same force and effect as copies hereof executed and delivered with original signatures. All parties hereto may rely upon DocuSign or pdf signatures as if such signatures were originals. Any party executing and delivering this Sublease by pdf shall promptly thereafter deliver a counterpart of this Sublease containing said party's original signature. All parties hereto agree that a DocuSign copy of this Sublease or pdf signature page may be introduced into evidence in any proceeding arising out of or related to this Sublease as if it were an original signature page.

13.10 Attorney Fees. In the event any action or proceeding at law or in equity or any arbitration proceeding be instituted by either party, for an alleged breach of any obligation of a party under this Sublease, to recover rent, to terminate the tenancy of Subtenant at the Premises, or to enforce, protect, or establish any right or remedy of a party to this Sublease, the prevailing party (by judgment or settlement) in such action or proceeding shall be entitled to recover as part of such action or proceeding such reasonable attorneys' fees, expert witness fees, and court costs

as may be fixed by the court or jury, but this provision shall not apply to any cross-complaint filed by anyone other than Sublandlord in such action or proceeding.

13.11 Sublandlord's Costs. In any case where Subtenant requests permission from Sublandlord and/or Master Landlord to assign, sublet, make alterations, or receive any other consent or obtain any waiver from or modification to the terms of this Sublease, Subtenant shall pay to Sublandlord or Master Landlord, as the case maybe, a reasonable administrative charge and reasonable attorney's fees incurred in reviewing such request or such amount as set forth in this Sublease or Master Lease as the case may be, provided Subtenant's obligation shall be capped at an aggregate amount not to exceed three thousand and no/100 dollars (\$3,000.00) per each individual request by Subtenant.

13.12 Waiver of Damages. Notwithstanding anything in this Sublease or under law or equity to the contrary, neither party shall be liable to the other for, and each party in favor of the other hereby waives any claim for, any indirect, consequential, special or punitive damages, including loss of profits or business opportunity, arising under or in connection with this Sublease, or negligence of the party against whom the claim would be made.

13.13 Exhibits. All exhibits to this Sublease are a part hereof.

IN WITNESS WHEREOF, Sublandlord and Subtenant have executed and delivered this Sublease on the date first set forth above.

**SUBLANDLORD**

**SUBTENANT**

**USCC SERVICES, LLC**, a Delaware limited liability company

**CITY OF CHICAGO**, an Illinois home rule municipality

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

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

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

(Sub)Exhibits "A", "B" and "C" referred to in this Sublease Agreement read as follows:

*Exhibit "A".*  
(To Sublease Agreement)

*Master Lease.*

## ***U.S. CELLULAR PLAZA***

# **SECOND AMENDED AND RESTATED OFFICE LEASE**

**FCA FUND CHICAGO II, LLC, a  
Delaware limited liability company ("Landlord")**

**and**

**USCC SERVICES, LLC, a  
Delaware limited liability company ("Tenant")**

**SECOND AMENDED AND RESTATED OFFICE LEASE**

**1. BASIC LEASE PROVISIONS AND IDENTIFICATION OF EXHIBITS**

**1.01 BASIC LEASE PROVISIONS**

**A. BUILDINGS AND ADDRESSES:**

U.S Cellular Plaza  
8410 West Bryn Mawr Avenue (the "8410 Building")  
8420 West Bryn Mawr Avenue (the "8420 Building")  
8430 West Bryn Mawr Avenue (the "8430 Building")  
Chicago, IL 60631

**B. LANDLORD AND ADDRESS:**

FCA Fund Chicago II, LLC  
c/o FCA Partners, LLC  
Attn: Edward M. Cherry  
201 South Tryon Street, Suite 900  
Charlotte, NC 28202

With a copy to:

FCA Fund Chicago, II, LLC  
c/o FCA Partners, LLC  
Attn: Property Manager  
U.S. Cellular Plaza  
8420 West Bryn Mawr Avenue, Suite 190  
Chicago, IL 60631

And a copy to:

Moore & VanAllen, PLLC  
Attn: Jeffrey W. Glenney  
100 North Tryon Street  
Suite 4700  
Charlotte, NC 28202-4003

**C. TENANT AND CURRENT ADDRESS:**

USCC Services, LLC  
8410 West Bryn Mawr Avenue  
Chicago, IL 60631  
Attn: Corporate Real Estate Department

With a copy to:

Elizabeth K. McCloy  
Sidley Austin LLP  
One South Dearborn  
Chicago, IL 60603

- D. **DATE OF THIS LEASE:** April 1, 2016 ("**Date of this Lease**")
- E. **LEASE TERM:** Eleven (11) years, plus the interim period commencing on April 1, 2016 and ending on October 31, 2017 (provided, however, that solely for purposes of calculating and determining any leasing commissions payable to Colliers in connection with this Lease, the Lease Term shall be deemed to be eleven (11) years commencing on November 1, 2017 and ending on the Expiration Date and shall exclude such initial interim period)
- F. **COMMENCEMENT DATE OF TERM:** April 1, 2016
- G. **EXPIRATION DATE OF TERM:** October 31, 2028
- H. **MONTHLY BASE RENT:**

**I. RENTABLE AREA OF THE PREMISES:**

Existing Premises: Floors 1 through 11, inclusive, of the 8410 Building - 212,428 RSF

Expansion Premises: Floors 4 through 9, inclusive, of the 8420 Building - 119,369 RSF

**J. SECURITY DEPOSIT: None****K. FLOORS:**

Existing Premises: Floors 1 through 11, inclusive, in the 8410 Building

Expansion Premises: Floors 4 through 9, inclusive, in the 8420 Building

- L. TENANT'S PROPORTIONATE SHARE:** The percentage derived from dividing the aggregate rentable area of the Premises, as the same exists from time to time, by the aggregate rentable area of the Complex (as hereinafter defined). As of the Date of this Lease: (i) Tenant's Proportionate Share with respect to the Existing Premises shall be and is hereby established and confirmed as Thirty-Three and 3,229/10,000 percent (33.3329%) (calculated by dividing 212,428, being the rentable area of the Premises, by 637,484, being the rentable area of the Complex); and (ii) Tenant's Proportionate Share with respect to the full Premises (inclusive of the Existing Premises and the Expansion Premises) shall be and is hereby established and confirmed as Fifty-Two and 479/10,000 percent (52.0479%) (calculated by dividing 331,797, being the rentable area of the full Premises, by 637,484, being the rentable area of the Complex).

**1.02 IDENTIFICATION OF EXHIBITS**

The exhibits set forth below and attached to this Lease are incorporated in this Lease by this reference:

<b>EXHIBIT A-1</b>	-	Plan of Existing Premises
<b>EXHIBIT A-2</b>	-	Plan of Expansion Premises
<b>EXHIBIT B</b>	-	Work Letter
<b>EXHIBIT B-1</b>	-	Contractor Insurance Requirements
<b>EXHIBIT C</b>	-	Parking Rules and Regulations
<b>EXHIBIT D</b>	-	[Intentionally Omitted]
<b>EXHIBIT E</b>	-	Tenant Roof Space
<b>EXHIBIT F</b>	-	Description of Antennae
<b>EXHIBIT G</b>	-	HVAC Specifications
<b>EXHIBIT H</b>	-	Cleaning Specifications
<b>EXHIBIT I</b>	-	Tenant Competitors
<b>EXHIBIT J</b>	-	Approved Contractors
<b>EXHIBIT K</b>	-	Existing Tenant Rights
<b>EXHIBIT L</b>	-	Termination Fee Amortization Schedule

- EXHIBIT M** - Contraction Fee Amortization Schedule
- EXHIBIT N** - Responsible Contractor Policy
- EXHIBIT O** - Restroom Work Plans
- EXHIBIT P** - Window Film Work Specification
- EXHIBIT Q** - Window Blind Work Specification
- EXHIBIT R** - Backbone Work Specification
- EXHIBIT S** - Reserved Parking Spaces and Tenant Visitor Parking Spaces

## 2. PREMISES AND TERM; LEASE OF PREMISES

### 2.01 AMENDED AND RESTATED LEASE

Landlord (through its predecessor-in-interest, PKY Fund Chicago II, LLC) and Tenant (through its predecessor-in-interest, United States Cellular Corporation) have heretofore entered into: (i) that certain Amended and Restated Office Lease dated as of January 1, 2010 (the "Original Lease"), as amended by that certain First Amendment to Amended and Restated Office Lease dated as of September 1, 2010 (the "First Amendment"), as modified by that certain Assignment and Assumption of Lease dated as of April 1, 2013 (the "Assignment"), and as further amended by that certain Second Amendment to Amended and Restated Office Lease dated as of December 31, 2014 (the "Second Amendment", and together with the Original Lease, the First Amendment, and the Assignment, collectively, the "Existing Lease"), whereby Landlord leases to Tenant, and Tenant leases from Landlord, certain premises in the 8410 Building consisting of the entirety of Floors 1 through 11, inclusive, thereof (collectively, the "Existing Premises"), which Existing Premises is deemed to comprise 212,428 rentable square feet in the aggregate, and which Existing Premises are more specifically shown and depicted on Exhibit A-1 attached hereto and made a part hereof, for a term through and including October 31, 2017, all on the terms and conditions set forth therein; and (ii) that certain Temporary Space License Agreement dated as of December 31, 2014 (the "Temporary Space Agreement") whereby Landlord licenses to Tenant, and Tenant licenses from Landlord, certain premises in the 8420 Building consisting of portions of Floor 9 thereof (collectively, the "Temporary Space") for a month-to-month term. Landlord and Tenant desire to amend and restate in its entirety the Existing Lease as of the Commencement Date, and to terminate the Temporary Space Agreement as of April 30, 2016 (the "Temporary Space Agreement Termination Date"), all on the terms and conditions hereinafter set forth, and as a result, the Existing Lease shall be deemed null, void, and of no further force or effect, and superseded by this Lease, upon the Commencement Date, and the Temporary Space Agreement shall be deemed null, void, and of no further force or effect as of the Temporary Space Agreement Termination Date. Tenant shall, on or before the Temporary Space Agreement Termination Date, vacate and surrender the Temporary Space to Landlord pursuant to, and in accordance with, the applicable terms and provisions of the Temporary Space Agreement.

### 2.02 LEASE OF PREMISES

In furtherance of the foregoing, Landlord hereby leases to Tenant and Tenant leases from Landlord (i) the Existing Premises, and (ii) certain premises in the 8420 Building consisting of the entirety of Floors 4 through 9, inclusive, thereof (collectively, the "Expansion Premises"), which Expansion Premises is deemed to comprise 119,369 rentable square feet in the aggregate, and which Expansion Premises are more specifically shown and depicted on Exhibit A-2 attached hereto and made a part hereof (the Existing Premises and the Expansion Premises are sometimes referred to hereinafter, collectively, as the "Premises"). The Existing Premises are situated in the 8410 Building located at the

address stated in Subsection 1.01.A, and the Expansion Premises are situated in the 8420 Building located at the address stated in Subsection 1.01.A, which 8410 Building and 8420 Building are part of an office building complex known as U.S Cellular Plaza and located at 8410-8420-8430 West Bryn Mawr, Chicago, Illinois, upon the following terms and conditions. For purposes of this Lease, "Building" shall mean (from time to time as the context dictates) either or all of the 8410 Building, the 8420 Building, and the 8430 Building, and "Complex" shall mean all land, buildings (including, specifically and without limitation, the 8410 Building, the 8420 Building, and the 8430 Building), and improvements, including, without limitation, the "Common Areas" (as hereinafter defined), comprising U.S. Cellular Plaza. The Premises and the Complex has been measured in substantial accordance with the 1996 office standard ANSI/BOMA z65.1-1996 (the "BOMA 1996 Standard"), and any additional space hereafter leased by Tenant in the Complex (whether pursuant to the Right of First Offer or the Right of First Refusal, as each such term is hereinafter defined, or otherwise) under this Lease will be measured in substantial accordance with the same BOMA 1996 Standard.

## 2.03 TERM

A. The term of this Lease (the "Term") with respect to the Existing Premises shall commence on the date stated in Subsection 1.01.F (the "Commencement Date"). The Term shall expire on the date (the "Expiration Date") stated in Subsection 1.01.G, unless sooner terminated as otherwise provided in this Lease, and subject to renewal as provided in Article 29 of this Lease.

B. The Term with respect to the Expansion Premises shall commence on the Turnover Date (as hereinafter defined) with respect thereto. The "Turnover Date" shall be the later of: (i) the one hundred eightieth (180th) day following the Date of this Lease; or (ii) the date on which the Restroom Work (as hereinafter defined) and the Backbone Work (as hereinafter defined) in the Expansion Premises is substantially completed. The Term with respect to the Expansion Premises shall expire on the Expiration Date stated in Subsection 1.01.G, unless sooner terminated as otherwise provided in this Lease, and subject to renewal as provided in Article 29 of this Lease.

C. With respect to the Expansion Premises, the period from the Turnover Date until October 31, 2017 shall be the "Beneficial Occupancy Period". During the Beneficial Occupancy Period: (i) Tenant shall use commercially reasonable efforts to complete the construction of its TI (as hereinafter defined) and the installation of its furniture, fixtures, and equipment and staged moves into the Expansion Premises; (ii) Tenant shall not be obligated to pay Monthly Base Rent, Adjusted Monthly Base Rent, or utilities (other than electricity for lights and outlets, which Tenant shall be required to pay during such Beneficial Occupancy Period based on separate meters) with respect to the Expansion Premises; (iii) Tenant will continue to pay Monthly Base Rent, Adjusted Monthly Base Rent, and utilities with respect to the Existing Premises during the Beneficial Occupancy Period in accordance with the terms and provisions hereof; and (iv) all other terms and conditions set forth in this Lease will be and remain in full force and effect with respect to both the Existing Premises and the Expansion Premises.

D. Landlord shall not be liable for damages to Tenant for failure to deliver possession of the Expansion Premises to Tenant for any reason, except that the Turnover Date shall be delayed until Landlord so delivers possession of the Expansion Premises to Tenant. Notwithstanding the foregoing, so long as this Lease is executed and delivered by Tenant on or before the Date of this Lease, if the Restroom Work and the Backbone Work is not substantially completed within the Expansion Premises by the two hundred eightieth (270th) day following the Date of this Lease, then if, and only to the extent that, such failure to so substantially complete the Restroom Work and the Backbone Work is not attributable to Tenant Delay or Force Majeure Events (as each such term is hereinafter defined), Tenant shall be entitled to an additional abatement of the Monthly Base Rent and Adjusted Monthly Base Rent otherwise payable by Tenant hereunder with respect to the Expansion Premises (but specifically excluding the Existing

Premises) equal to one (1) day for each day from and after the two hundred seventy-first (271st) day following the Date of this Lease during which Landlord fails to so substantially complete the Restroom Work and the Backbone Work within the Expansion Premises as aforesaid.

### 3. RENT

#### 3.01 PAYMENT OF RENT

#### 3.02 EXISTING PREMISES FREE RENT PERIOD

A. Notwithstanding anything to the contrary contained herein, Tenant's obligations for Monthly Base Rent and Adjusted Monthly Base Rent with respect to the Existing Premises only (and specifically excluding Monthly Base Rent and Adjusted Monthly Base Rent with respect to the Expansion Premises), shall be abated in full for the twelve (12) month period commencing on November 1, 2017 and ending on October 31, 2018 (the "Existing Premises Free Rent Period", and the Monthly Base Rent and Adjusted Monthly Base Rent so abated hereunder, the "Existing Premises Rental Abatement"); provided, (i) if there shall be an Event of Default by Tenant at any time during any Existing Premises Free Rent Period, Tenant shall not be entitled to the remainder of the Existing Premises Free Rent Period unless and until Tenant cures such Event of Default to completion, in which case the Existing Premises Free Rent Period shall be reinstated for the remaining period thereof, and (ii) if this Lease or Tenant's right to possession hereunder shall be terminated as a result of an Event of Default by Tenant hereunder, Tenant shall become obligated to pay, in addition to Tenant's other obligations under the Lease, the then-unamortized portion of the Existing Premises Rental Abatement hereunder (which Existing Premises Rental Abatement shall be amortized on a straight-line basis over the period commencing on November 1, 2017 and ending on October 31, 2028 using an interest rate of eight percent (8%) per annum) within thirty (30) days following written demand by Landlord.

B. Notwithstanding the provisions of Section 3.02.A above: (i) Tenant shall have the right, upon written notice delivered to Landlord no earlier than August 1, 2016 and no later than September 1, 2017, and without impacting the Term, to elect to convert all or any portion of the Existing Premises Rental Abatement to an additional TI Allowance (as hereinafter defined) hereunder to be used and applied

for any of the items permitted under the Work Letter attached as *Exhibit B* hereto and made a part hereof (the "Work Letter") on a present value basis using an eight percent (8%) discount rate, and such conversion shall become effective within thirty (30) days following delivery of such written notice to Landlord; and (ii) Landlord shall also have the right, at any time prior to or after the Date of this Lease and without impacting the Term, and upon not less than thirty (30) days' prior written notice delivered to Tenant, to accelerate all or any portion of the Existing Premises Rental Abatement and to provide Tenant with a lump sum payment on a present value basis using an eight percent (8%) discount rate in lieu thereof, in which event Tenant shall thereupon commence paying Monthly Base Rent and Adjusted Monthly Base Rent with respect to the Existing Premises at the then-applicable amounts thereof. Any such conversion shall be confirmed by a mutually and reasonably acceptable amendment to this Lease executed by Landlord and Tenant.

#### 4. SECURITY DEPOSIT

It is acknowledged and agreed that, while Landlord has not required a security deposit in connection with the execution and delivery of this Lease by Landlord and Tenant, in the event that Tenant's financial condition is materially or significantly diminished at the time Tenant seeks to exercise any Right of First Offer (as hereinafter defined) pursuant to Article 30 hereof, any Right of First Refusal (as hereinafter defined) pursuant to Article 33 hereof, or any other expansion of the Premises then demised hereunder as compared to Tenant's financial condition on the Date of this Lease, then Landlord reserves the right, to be exercised in Landlord's commercially reasonable discretion, to require that Tenant deposit security which may, at Tenant's option, be in the form of either cash or a letter of credit (the "Security Deposit") in connection with the exercise of such Right of First Offer, Right of First Refusal, or other expansion of the Premises then demised hereunder, which Security Deposit shall be in an amount sufficient to provide Landlord with additional security for the costs and expenses to be incurred by Landlord in connection with such Right of First Offer, Right of First Refusal, or other expansion of the Premises then demised hereunder, which Security Deposit shall be consistent with then-prevailing market conditions for comparable expansions in Comparable Buildings (as hereinafter defined). Any such Security Deposit may be applied by Landlord to cure any Event of Default (as hereinafter defined) under this Lease, and upon notice by Landlord of such application, Tenant shall replenish the Security Deposit in full by promptly paying to Landlord the amount so applied or delivering to Landlord an additional letter of credit. Landlord shall not pay any interest on such Security Deposit. Within forty-five (45) days after the Expiration Date (as the same may be extended as hereinafter provided) or the date on which Tenant provides Landlord with satisfactory written evidence that Tenant's financial condition is no longer materially or significantly diminished from Tenant's financial condition on the Date of this Lease, Landlord shall return to Tenant the balance, if any, of such Security Deposit. The Security Deposit shall not be deemed an advance payment of Rent or a measure of damages for any default by Tenant under this Lease, nor shall it be a bar or defense to any action which Landlord may at any time commence against Tenant.

#### 5. SERVICES

##### 5.01 LANDLORD'S GENERAL SERVICES

During the Term, Landlord shall provide the following services:

(1) heat, ventilation, and air-conditioning in the Premises, Monday through Friday from 8:00 A.M. to 6:00 P.M. and Saturday from 8:00 A.M. to 1:00 P.M. ("Normal Business Hours"), excluding Sundays and Holidays (as hereinafter defined), substantially in accordance with the Building's HVAC Specifications attached hereto as *Exhibit G* (the "HVAC Specifications"), and in the absence of the use of excessive or non-customary machines or

equipment (or population density in the Premises in excess of that set forth in the HVAC Specifications), which materially or adversely affect the temperature otherwise maintained in the Premises, subject, however, to applicable Laws (as hereinafter defined);

(2) hot and cold city water from the regular Building fixtures for drinking, kitchen, lavatory, and toilet purposes only daily twenty-four (24) hours a day, seven (7) days a week;

(3) customary cleaning and janitorial services in the Premises and Common Areas Monday through Friday, excluding Holidays, substantially in accordance with the Cleaning Specifications attached hereto as Exhibit F;

(4) mowing, groundskeeping, landscaping, snow removal, and trash removal in the Common Areas in a manner consistent with Comparable Buildings;

(5) window washing of windows in the Premises and the Common Areas, inside and outside at reasonable intervals (but at least two (2) times each calendar year for outside window washing);

(6) adequate passenger elevator service in common with other tenants of the Building daily twenty-four (24) hours a day, seven (7) days a week, at least three (3) of which elevators per Building shall be operating daily during Normal Business Hours, and at least two (2) of which elevators per Building shall be operating at all times, in each case subject to temporary interruptions for necessary repairs or for other matters beyond Landlord's reasonable control, and freight elevator service per Building daily, subject to scheduling by Landlord, and subject to temporary interruptions for necessary repairs or for other matters beyond Landlord's reasonable control;

(7) 24-hour manned general security services in the Complex in such manner as Landlord shall determine is appropriate from time to time (so long as the same is consistent with security services in Comparable Buildings); provided, (i) Landlord makes no representation or warranty whatsoever concerning the adequacy or sufficiency of any such security services, (ii) Landlord further reserves the right to relocate, replace, modify, or alter any such security services from time to time during the Term hereof (so long as such relocations, replacements, modifications, or alterations are consistent with security services in Comparable Buildings), and (iii) Tenant shall be entitled to review and approve, which approval shall not be unreasonably withheld, conditioned, or delayed, any such relocations, replacements, modifications, or alterations to such security services with respect to the 8410 Building only; and

(8) the Building's loading docks in common with Landlord and other tenants of the Building during Normal Business Hours, upon request of Tenant and subject to reasonable scheduling by Landlord.

"Holidays" shall mean the following days: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.

## 5.02 ADDITIONAL AND AFTER-HOUR SERVICES

Landlord shall not be obligated to furnish any services or utilities, other than those stated in this Article 5. If Landlord elects to furnish services or utilities requested by Tenant in addition to those listed in Section 5.01 or at times other than Normal Business Hours, Tenant shall pay to Landlord the actual, out-of-pocket prevailing charges for such services and utilities, within thirty (30) days after a separate

billing therefor (inclusive of reasonable supporting documentation). If Tenant fails to make any such payment within such 30-day period, Landlord may, without notice to Tenant and in addition to Landlord's other remedies under this Lease, discontinue any or all of such additional or after-hour services. Except as otherwise expressly provided herein, no such discontinuance of any service shall result in any liability of Landlord to Tenant or be considered an eviction or a disturbance of Tenant's use of the Premises. Notwithstanding the foregoing, Landlord, at Tenant's sole cost and upon prior written request from Tenant no later than 12:00 p.m. on Monday – Friday for additional service on such day, and no later than 12:00 p.m. on the preceding day for additional service on any Saturday, Sunday, or Holiday (provided, Landlord shall use commercially reasonable efforts to accommodate any request by Tenant for such additional services if provided later than the aforementioned deadlines to the extent reasonably practicable), shall, but subject to Force Majeure Events and subject to the service capability of the Building's systems, furnish heat, ventilation, and air conditioning to the Premises during times other than Normal Business Hours, subject in each case to Tenant's payment of Landlord's then applicable charges for such after-hours service (which charges are currently \$110.00 per hour per floor for air conditioning and \$65.00 per hour per floor for heating, and which charges are subject to change at any time and from time to time, provided that such modified charges shall in no event exceed Landlord's actual, out-of-pocket, additional cost of providing such after-hours service, as the same may increase from time to time, plus five percent (5%) thereof).

#### 5.03 DELAYS IN FURNISHING SERVICES

Tenant agrees that Landlord shall not be liable for damages for failure to furnish or delay in furnishing any service if attributable to Force Majeure Events. In addition, no such failure or delay shall be considered to be an eviction or disturbance of Tenant's use or possession of the Premises, or relieve Tenant from its obligation to pay all Rent when due or from any other obligations of Tenant under this Lease, except as stated in the remainder of this Section 5.03. Notwithstanding the foregoing to the contrary, in the event of any failure or delay in the furnishing of (i) heat, ventilation, and air-conditioning in the Premises, (ii) water from the regular Building fixtures for drinking, lavatory, and toilet purposes, (iii) passenger elevator service serving the Premises, or (iv) base Building electrical equipment and facilities (excluding, however, Tenant's electrical equipment and facilities within the Premises) (each, a "Critical Failure"), irrespective of whether such Critical Failure is caused by a Force Majeure Event or otherwise (but subject to the last grammatical sentence hereof), and provided that (a) such Critical Failure is not caused by Tenant or any Tenant Parties (as hereinafter defined), (b) such Critical Failure continues for five (5) consecutive days (or continues for one (1) day in the event that such Critical Failure is caused by the negligence or willful misconduct of Landlord or any Landlord Parties (as hereinafter defined)), and (c) Tenant does not occupy the Premises, or any portion thereof, during said 5-day period (or 1-day period, as the case may be), then Monthly Base Rent and Adjusted Monthly Base Rent with respect to such unoccupied portion of the Premises shall abate commencing as of the day immediately following the expiration of said 5-day period (or 1-day period, as the case may be) and expiring on the earlier to occur of (1) the date of restoration of such services, or (2) the date Tenant resumes occupancy of the entire Premises, or the relevant portion thereof, as the case may be. Such abatement shall be in an amount bearing the same ratio to the total amount of Monthly Base Rent and Adjusted Monthly Base Rent for such period as the portion of the rentable square footage of the Premises in which Tenant actually ceases to conduct its customary business operations bears to the overall rentable square footage of the Premises. In addition, if (A) such Critical Failure is not caused by Tenant or Tenant's employees, agents, or invitees, (B) such Critical Failure continues for one hundred eighty (180) consecutive days, and (C) Tenant does not occupy the Premises, or any material portion thereof (which, solely for purposes hereof, shall mean forty percent (40%) or more of the rentable area thereof), during such 180-day period, then Tenant shall have the right to terminate this Lease effective as of the expiration of said 180-day period upon written notice to Landlord given within twenty (20) days following the expiration of said 180-day period (which notice shall be effective and binding on Landlord and Tenant unless such service is restored within such

20-day period) as Landlord's sole liability to Tenant and Tenant's sole remedy against Landlord for such failure or delay. Notwithstanding the foregoing, if Tenant's right to abatement occurs because of damage or destruction by fire or other casualty or taking by eminent domain, Tenant's abatement period and other rights and obligations with respect thereto shall be governed solely by the applicable casualty and condemnation provisions of this Lease.

#### 5.04 TENANT'S UTILITIES

Tenant shall make arrangements directly with the telephone company and the public utility electric company servicing the Building for telephone service and all electric power or current in the Premises desired by Tenant. Tenant shall pay for all telephone and electric service (other than for the services provided under Clause (1) of Section 5.01) used or consumed in the Premises, including the cost of installation of any separate meters. Tenant shall also pay for the maintenance and replacement of all light fixtures, electrical switches, electrical outlets, lamps, bulbs, tubes, ballasts, and starters located in the Premises. Tenant shall have the right to keep and maintain during the Term (and to replace with comparable air conditioning units, as necessary), Tenant's air conditioning units now located on the roof of the 8410 Building as of the Date of this Lease, it being understood and agreed that any additional units or other roof installations shall be and remain subject to the applicable terms and provisions of this Lease, including, without limitation, Article 10 hereof.

#### 5.05 FITNESS CENTER

Landlord shall maintain at the Complex during the Term, as part of the Common Areas, for exclusive use by Tenant (and its employees) and the other tenants and occupants of the Complex (and their employees) from time to time (but not for use by the general public, except as hereinafter provided in this Section 5.05), an unmanned health and fitness center (the "Fitness Center") consisting of approximately two thousand eight hundred sixteen (2,816) rentable square feet (or such other larger size as Landlord deems appropriate from time to time). Tenant (and its employees) shall be permitted to use the Fitness Center at no cost to Tenant or its employees (and no membership fee or other charge of any kind relative to such Fitness Center usage shall be charged to Tenant or any employees of Tenant), subject, however, to inclusion of the costs and expenses thereof as part of Operating Expenses, to the extent such costs and expenses are permitted to be so included as part of Operating Expenses hereunder. Landlord shall have the right to require each individual who is permitted to use the Fitness Center (as a condition to his/her use of the Fitness Center) to enter into a separate agreement with Landlord. The Fitness Center shall be operated and maintained during the Term hereof in a manner consistent with similar fitness centers located at other Comparable Buildings. Notwithstanding the prohibition on use of the Fitness Center by the general public as set forth above, Landlord hereby reserves the right, and shall be permitted (but shall in no event be required), to bring into the Fitness Center from time to time third party fitness instructors, trainers, and providers for the purpose of providing specialized fitness-related classes, instruction, or services, and in such event, such third party fitness instructors, trainers, and providers shall be permitted to bring into the Fitness Center from time to time reasonable numbers of their non-tenant or non-employee clients for participation in such classes, instruction, or services (provided, however, in the event that the frequency or quantity of such non-tenant or non-employee clients causes a material disruption to the use or availability of the Fitness Center to Tenant (or its employees), Tenant shall so notify Landlord thereof in writing, in which event Landlord shall remedy such disruption as soon thereafter as is reasonably practicable).

#### 5.06 EXTRA UTILITIES AND SERVICES

Without limitation of any services being provided by Landlord as expressly set forth in this Lease, including Section 5.01 above (or as Landlord hereafter determines to provide, at its sole discretion

or to comply with Section 5.07 below), Landlord shall also provide to Tenant such other extra utilities or services as Tenant may from time to time reasonably request, provided that (a) the same are reasonable and feasible for Landlord to provide and do not involve modifications or additions to the Building or existing Building systems or equipment or any other capital expenditures, (b) Landlord shall receive Tenant's written request reasonably in advance, and (c) such services are generally available in Comparable Buildings (all of which extra utilities or services provided to Tenant under this Section 5.06 being referred to as "Extra Utilities and Services"). Tenant shall, for such Extra Utilities and Services, pay to Landlord its then applicable charges for such Extra Utilities and Services (which charges shall in no event exceed Landlord's actual, out-of-pocket, additional cost of providing such Extra Utilities and Services, as the same may increase from time to time, plus five percent (5%) thereof), which payment shall be due from time to time within thirty (30) days after Landlord's written demand therefor. If Tenant shall fail to timely make any such payment within such 30-day period, then, in addition to all other remedies available to Landlord, Landlord may discontinue any such Extra Utilities and Services. No such discontinuance of any such additional service shall result in any liability of Landlord to Tenant or be considered as an eviction or a disturbance of Tenant's use of the Premises.

#### 5.07 STANDARD OF OPERATION

Landlord shall operate or cause to be operated, the Complex, and shall provide or cause to be provided management and services thereto, in a manner consistent with Comparable Buildings. Landlord shall use commercially reasonable efforts to minimize any failure, delay, interruption, or diminution in furnishing any service described in this Article 5 which is the express responsibility of Landlord hereunder.

#### 5.08 USE OF FIRE STAIRS

So long as permitted by applicable Laws, including, without limitation, building and fire codes and requirements, and subject to any rules reasonably adopted by Landlord from time to time as permitted hereunder, Tenant may, at its sole cost and expense, at all times during the Term (i) use the fire exit stairways for travel between and among any full floors of the Building, and (ii) upgrade Building standard improvements therein in accordance with Article 10 hereof (which stairway improvements may include, without limitation, the installation of a card reader or other system exclusively for Tenant's use, so long as (a) the same is compatible with the Building's fire and life-safety and security systems), as well as installation of drywall, carpeting (if permitted by Laws), paint of Tenant's choice, and light fixtures, all in accordance with all applicable Laws, and (b) in the case of the 8420 Building and the 8430 Building (if applicable), as the case may be, such upgrades do not violate the terms and provisions of any existing lease in the 8420 Building or the 8430 Building, as the case may be, in effect as of the Date of this Lease. Tenant shall ensure that all stairwell entry doors to the Premises shall remain closed and locked at all times (except for access by means of the approved security system). Tenant expressly acknowledges and agrees that Landlord shall have no additional responsibility for security within such stairway areas (other than Landlord's general obligation to provide security services for the Building as set forth herein) due to Tenant's use thereof in accordance with this Section 5.08. If so directed by Landlord upon the expiration or earlier termination of this Lease, or the termination of this Lease with respect to affected portions of the Premises (including, without limitation, in connection with Tenant's exercise of the Contraction Option (as hereinafter defined) as provided under Article 34 hereof), Tenant shall remove any such stairway improvements installed by Tenant hereunder and restore those fire exit stairways affected thereby to the condition existing prior to such installation, ordinary wear and tear excepted, and in manner consistent with applicable Laws.

## 6. POSSESSION, USE, AND ENJOYMENT

### 6.01 POSSESSION AND USE OF PREMISES

Tenant is now in possession of the Existing Premises pursuant to the Existing Lease. Tenant shall be entitled to possession of the Expansion Premises on the Turnover Date. Tenant shall occupy and use the entirety of the Premises hereunder for general office purposes only and such other ancillary uses as are permitted by Law and consistent with Comparable Buildings. Tenant shall not occupy or use the Premises or permit the use or occupancy of the Premises for any purpose or in any manner which:

(1) is unlawful or in violation of any applicable legal, governmental, or quasi-governmental law, statute, code, requirement, ordinance, or rule (each, a "Law", and collectively, "Laws"), as well as any commercially reasonable requirement of Landlord's insurance carriers which is communicated in writing to Tenant (so long as no such insurance requirement precludes Tenant from using, or continuing to use, the Premises for the purposes specifically permitted under this Section 6.01);

(2) may be dangerous to persons or property;

(3) may, due to Tenant's particular manner of use of the Premises, or any portion thereof (other than for general office purposes and related ancillary uses as specifically permitted under this Section 6.01), invalidate or increase the amount of premiums for any policy of insurance affecting the Building or the Complex, unless, if any additional amounts of insurance premiums are so incurred, Tenant shall pay to Landlord the additional amounts on demand; or

(4) may create a legal nuisance or disturb any other tenant of the Complex.

### 6.02 QUIET ENJOYMENT

So long as no Event of Default exists under this Lease, Tenant shall be entitled to peaceful and quiet enjoyment of the Premises and reasonable access thereto for the Term, free from any unreasonable interference by Landlord or anyone claiming through Landlord, subject to the terms of this Lease.

### 6.03 COMMON AREAS

A. For purposes of this Lease "Common Areas" shall mean all areas, improvements, space, and equipment in or at the Complex provided by Landlord for the common or joint use and benefit of tenants, customers, and other invitees, including, without limitation, all parking areas, parking garages, garage access roads, driveways, entrances and exits, retaining walls, landscaped areas, truck serviceways, or tunnels, loading docks, pedestrian walk-ways, walls, courtyards, concourses, stairs, ramps, sidewalks, washrooms, the Fitness Center, signs identifying or advertising the Complex, maintenance buildings, utility buildings, maintenance and utility rooms and closets, hallways, lobbies, elevators and their housing and rooms, common window areas, walls and ceilings in Common Areas, and trash or rubbish areas.

B. Tenant shall be entitled to use, in common with others entitled thereto, the Common Areas as may be designated from time to time by Landlord, subject however to the terms and conditions of this Lease and subject to Article 18, to the reasonable rules and regulations for the use thereof as may be prescribed from time to time by Landlord but applied consistently for all tenants of the Complex. If the size or configuration of the Common Areas is diminished or altered, Landlord shall not be liable to Tenant therefor, nor shall Tenant be entitled to any compensation or diminution or abatement of Adjusted Monthly Base Rent, nor shall such diminution or alteration of the Common Areas be considered a

constructive or actual eviction; provided, however, that no such changes in or to the Common Areas hereinafter performed or imposed by Landlord shall (i) materially and adversely interfere with Tenant's use of, or access to, the Premises hereunder, or (ii) diminish Tenant's parking rights under Article 27 hereof in any material respect.

C. Landlord represents to Tenant that, as of the Date of this Lease, Landlord has received no written notice from any governmental authority that the 8410 Building, the Expansion Premises, or the Common Areas of the Complex are in violation in any material respect of any currently applicable requirements of the ADA (as hereinafter defined) or any currently applicable regulations of the Environmental Protection Agency.

#### **6.04 RESTRICTION ON COMPETITORS**

## 7. CONDITION OF PREMISES

Except for the Landlord Premises Work (as hereinafter defined), Tenant shall accept the Premises in an "as-is" physical condition on the Commencement Date, and shall be conclusively presumed to have waived all claims relating to the condition of the Premises, except for latent defects in base Building systems, equipment, or structural components serving the Premises. Except for the Landlord Non-Premises Work (as hereinafter defined), no agreement of Landlord to alter, remodel, decorate, clean, or improve the Premises, the Building, the Common Areas, or the Complex, and no representation regarding the condition of the Premises, the Building, the Common Areas, or the Complex, has been made by or on behalf of Landlord to Tenant, except as expressly stated in this Lease.

## 8. ASSIGNMENT AND SUBLETTING

### 8.01 ASSIGNMENT AND SUBLETTING

Except to the extent permitted by the terms and provisions of this Article 8, without the prior written consent of Landlord, Tenant shall not sublease the Premises, or assign, mortgage, pledge, hypothecate, or otherwise transfer or permit the transfer of this Lease or the interest of Tenant in this Lease, in whole or in part, by operation of law or otherwise. Landlord agrees that Landlord's consent to a proposed assignment (other than an assignment to be given for collateral purposes) or a proposed sublease shall not be unreasonably withheld, conditioned, or delayed. If Tenant desires to assign this Lease or enter into any sublease of the Premises, Tenant shall deliver written notice of such intent to Landlord, together with a copy of the proposed assignment or sublease, at least thirty (30) days prior to the effective date of the proposed assignment or commencement date of the term of the proposed sublease. Any approved sublease shall be expressly subject to the terms and conditions of this Lease. In addition to Tenant's payment to Landlord of Adjusted Monthly Base Rent, after Tenant has recouped the sum of (a) all of Tenant's actual, reasonable, and documented costs to sublease, including, without limitation, subtenant allowances, rent abatements, all concessions and inducements, lease buy-out costs, attorneys' fees, advertising expenses, and any customary brokerage commission actually paid by Tenant to a licensed real estate broker to procure such sublease, plus (b) the actual, reasonable, out-of-pocket cost to Tenant of leasehold improvements undertaken by Tenant (subject to Landlord's prior written consent and the other provisions of Article 10 below) solely to prepare the sublease space for such subtenant, Tenant shall pay Landlord on the first day of each month during the term of such sublease, fifty percent (50%) of the excess of (i) all rent and other consideration due from the subtenant for such month, minus (ii) that portion of the Adjusted Monthly Base Rent due under this Lease for said month which is allocable on a square footage basis to the space sublet. In the event of any approved sublease or assignment, Tenant shall not be released or discharged from any liability, whether past, present, or future, under this Lease, including any renewal term of this Lease. Without limitation, Landlord shall not be deemed to have unreasonably withheld, conditioned, or delayed its consent to any sublease of the Premises or assignment of this Lease if (1) the proposed transferee is an existing tenant or occupant of the Complex, and (2) Landlord has reasonable comparable space in the Complex available to lease to such proposed subtenant or assignee, as the case may be. Notwithstanding the foregoing, Tenant, at any time without the prior written consent of Landlord, but on not less than twenty (20) days' prior written notice to Landlord, and subject to all of the other terms and conditions of this Lease, may (A) sublease all or any portion of the Premises or assign its interest in this Lease to an Affiliate, or (B) sublease a portion or portions of the Premises, not to exceed twenty percent (20%) of the rentable area thereof in the aggregate, to so-called "friends of the firm" with whom Tenant then maintains an independent business relationship and for which the primary use of such subleased space shall be for the service of such business relationship between Tenant and such other entity, including, without limitation, auditors, attorneys, agents, vendors, or consultants of Tenant or of any Affiliate falling within such definition. For purposes of this Lease, "Affiliate" shall mean (x) any person or entity to which Tenant conveys or assigns, as part of a single

transaction, all or substantially all of its stock or assets, including its interest and obligation under this Lease, (y) any entity with which Tenant may consolidate, or into which Tenant may be merged, or any entity resulting from a merger or consolidation to which Tenant is a party, or (z) any entity controlling, controlled by, or in common control with Tenant. The term "control" as used in this Lease means the power to directly or indirectly direct or cause the direction of the management and policies of Tenant, through the ownership of voting securities or beneficial interests or other ownership interests.

#### 8.02 RECAPTURE

If Tenant desires to enter into any sublease of the Premises other than to an Affiliate or "friend of the firm" as aforesaid and such sublease is for all or substantially all of the then-remaining Term, Landlord shall have the option to exclude from the Premises covered by this Lease the space proposed to be sublet by Tenant, effective as of the proposed commencement date of the sublease of said space by Tenant. Landlord may exercise said option by giving Tenant written notice within ten (10) business days after receipt by Landlord of Tenant's notice of the proposed sublease. If Landlord exercises said option, Tenant shall surrender possession of the proposed sublease space to Landlord on the effective date of exclusion of said space from the Premises covered by this Lease, and neither party hereto shall have any further rights or liabilities with respect to said space under this Lease. Effective as of the date of exclusion of any portion of the Premises covered by this Lease pursuant to this paragraph, (i) the Monthly Base Rent specified in Subsection 1.01.H shall be reduced in the same proportion as the number of square feet of rentable area contained in the portion of the Premises so excluded bears to the number of square feet of rentable area contained in the Premises immediately prior to such exclusion, and (ii) the rentable area of the Premises specified in Subsection 1.01.I shall be decreased by the number of square feet of rentable area contained in the portion of the Premises so excluded, for all purposes under this Lease. In the event that Landlord elects to exercise the recapture option described herein and actually recaptures such space from Tenant, Landlord shall be responsible for separately demising the recaptured space from the remaining Premises (including, without limitation, the installation of required Building-standard demising walls and separate meters) at no additional cost or expense to Tenant, which demising work shall be performed by Landlord at such time as Landlord deems necessary or appropriate in Landlord's commercially reasonable discretion. Notwithstanding any of the foregoing to the contrary, if Landlord notifies Tenant that Landlord has elected to terminate this Lease with respect to the space described in a notice from Tenant regarding a prospective sublease transaction, as described above, then Tenant shall have the right, at its election, to rescind its earlier notice to Landlord regarding such transaction, which rescission shall be exercised by written notice to Landlord no later than ten (10) business days following Tenant's receipt of Landlord's election (time being of the essence), whereupon this Lease shall continue in full force and effect, and Tenant's earlier notice to Landlord of a desire to make the subject sublease shall be deemed null and void. In addition, if Tenant desires to assign this Lease, or any portion thereof, or to sublease the Premises or any portion thereof, Tenant shall be permitted to advertise, in a commercially reasonable manner, the availability of space without first obtaining Landlord's approval thereof.

#### 8.03 COSTS

Tenant agrees to reimburse Landlord, within thirty (30) days after billing and whether or not Landlord consents to such transfer, for all actual, reasonable, out-of-pocket costs and expenses, including, without limitation, reasonable legal fees, paid or incurred by Landlord in connection with Landlord's review of any proposed assignment or sublease and documentation of Landlord's consent thereto, which fees, costs, and expenses shall not exceed the sum of Three Thousand and No/100 Dollars (\$3,000.00) per request in the case of routine requests not requiring extensive administrative review or attorney negotiation.

## 9. MAINTENANCE

### 9.01 LANDLORD'S MAINTENANCE

Landlord, at its expense, shall maintain, replace, and make necessary repairs to the base Building, foundations, roof, exterior walls, structural elements, and exterior windows of the Complex, and the base Building systems, including, without limitation, the electrical, plumbing, heating, ventilation, and air conditioning systems, and life-safety systems therein, in a manner consistent with applicable Laws and with other first class commercial office buildings located in the "O'Hare" submarket of the greater Chicago, Illinois metropolitan area ("**Comparable Buildings**"), except that:

(1) Landlord shall not be responsible for the maintenance, repair, or replacement of any such systems which are located within the Premises and are supplemental or special to the Building's standard systems, or floor or wall coverings in the Premises: and

(2) the cost of performing any of said maintenance or repairs caused by the negligence of Tenant or any Tenant Parties, or the failure of Tenant to perform its obligations under this Lease, shall, subject to the terms and provisions of Section 17.03 hereof, be paid by Tenant, except to the extent of insurance proceeds, if any, actually collected by Landlord from Landlord's insurance policies (or which would have been collected had Landlord maintained the insurance required to be maintained by Landlord hereunder) with regard to the damage necessitating such repairs. Notwithstanding anything to the contrary set forth herein, Landlord shall be responsible for repair or replacement of damage to the Premises, Complex, and Common Areas to the extent caused by the negligence or willful misconduct of any Landlord Party (as hereinafter defined), which repair or replacement shall be performed within a reasonable timeframe after the date of such damage.

### 9.02 TENANT'S MAINTENANCE

Subject to the terms and provisions of Article 15, Tenant, at its expense, shall keep and maintain the Premises in good order, condition and repair and in accordance with all applicable Laws provided, however, that, Tenant shall not be obligated to make any structural alterations or capital improvements to the Premises to the extent required by any Laws which require generally that such structural alterations or capital improvements are required to be made to the Building as a whole (i.e., as distinguished from alterations or improvements made necessary by Tenant's particular use of the Premises, and not merely as a result of Tenant's "general office" usage, or required to be made to, or made necessary by, any work, including, without limitation, work done in the Premises by or on behalf of Tenant), and provided further, that Tenant shall not be obligated to maintain or repair any of the items which Landlord is obligated to maintain and to repair pursuant to Section 9.01 or any other section of this Lease, except as otherwise provided therein.

### 9.03 MAINTENANCE OF COMMON AREAS

The Common Areas shall at all times be subject to the exclusive control, management, operation, and maintenance of Landlord. Subject to the terms and provisions of Article 18, Landlord shall have the right from time to time to establish, modify, and enforce reasonable rules and regulations with respect to the Common Areas, which rules and regulations Landlord shall apply in a uniform and non-discriminatory manner. Tenant agrees to comply with such rules and regulations, to cause each Tenant Party to so comply, and to use its reasonable efforts to cause its customers, invitees, concessionaires, suppliers, and licensees to so comply. Landlord shall have the right to construct, maintain and operate lighting facilities in and on the Common Areas; to police the same; from time to time to change the area,

level, location, or arrangement of parking areas and other facilities located in the Common Areas; to close all or any portion of the Common Areas to such extent as may, in the commercially reasonable opinion of Landlord, be legally sufficient to prevent a dedication thereof or accrual of any rights to any person or the public therein; to close temporarily all or any part of the parking areas or parking facilities; and to do and perform such other acts in and to the Common Areas as, in the exercise of good business judgment, Landlord shall determine to be advisable, but consistently for all tenants of the Complex and subject to any limitations to the extent expressly set forth in this Lease.

## 10. ALTERATIONS AND IMPROVEMENTS

### 10.01 TENANT'S ALTERATIONS

Subject to Section 10.02 and Section 10.03, and except for the initial TI and the HVAC Diffuser Work (as each such term is hereinafter defined) which shall instead be governed by the terms and provisions of the Work Letter, Tenant shall not, without the prior written consent of Landlord (which consent shall not be unreasonably withheld, conditioned, or delayed), make or cause to be made any alterations, improvements, additions, or installations (each, an "Alteration") in or to the Premises. If Tenant proposes to make any such Alteration, before commencement of any such Alteration or delivery of any materials into the Premises or the Building, Tenant shall furnish to Landlord for approval: architectural plans and specifications, names and addresses of all contractors, necessary permits and licenses, and certificates of insurance, all in such form and amount as may be satisfactory to Landlord in its commercially reasonable judgment. Tenant agrees to hold the Landlord Parties and each of them forever harmless against all claims and liabilities of every kind, nature, and description which may arise out of or in any way be connected with such Alteration, except to the extent arising from the negligence or willful misconduct of any of the Landlord Parties. All such Alteration work shall be done only by contractors or mechanics approved by Landlord, which approval shall not be unreasonably withheld, conditioned, or delayed, and at such time and in such manner as Landlord may from time to time reasonably designate. Without limitation of the other terms and provisions hereof, it is acknowledged and agreed that the contractors specifically named on Exhibit J attached hereto and made a part hereof (collectively, the "Approved Contractors") shall be deemed approved for purposes of this Article 10, so long as such Approved Contractors, at the time of any such Alteration hereunder, remain licensed and bonded contractors in good standing, are union trades, meet Landlord's reasonable contractor insurance requirements (which current contractor insurance requirements are set forth on Exhibit B-1 attached hereto and made a part hereof), and are otherwise capable of working in harmony with all contractors of Landlord and the other tenants and occupants of the Complex. All such contractors, including, without limitation, any Approved Contractors, will be required to adhere to the "Responsible Contractor Policy", a copy of which is attached as Exhibit N hereto and made a part hereof. Tenant shall pay the cost of all such Alteration work. Upon completion of such Alteration work, Tenant shall furnish Landlord with contractors' affidavits and full and final waivers of lien covering all labor and materials expended. All such Alteration work shall be in compliance with all applicable Laws. All such Alteration work shall be done in a good and workmanlike manner and with the use of good grades of materials. Tenant shall permit Landlord, if Landlord so desires, to supervise construction operations in connection with such Alteration work; provided, however, that (i) such supervision or right to supervise by Landlord shall not constitute any warranty by Landlord to Tenant of the adequacy of the design, workmanship, or quality of such Alteration work or materials for Tenant's intended use or impose any liability upon Landlord in connection with the performance of such Alteration work, and (ii) Landlord shall not charge Tenant a supervision fee for such Alteration work, provided, however, that, except in the case of Permitted Alterations (as hereinafter defined), Tenant shall reimburse Landlord for all of Landlord's actual, reasonable, out-of-pocket expenses incurred for architects, engineers, contractors, attorneys, and consultants in connection with the review and approval of such Alteration work. All Alterations to or on the Premises shall (subject to Article 13) become part of the Premises at the time of their installation and

shall remain in the Premises at the expiration or termination of this Lease, or termination of Tenant's right of possession of the Premises, without compensation or credit to Tenant. No consent or approval required pursuant to this Section 10.01 shall be unreasonably withheld, conditioned, or delayed; provided, that anything set forth in the foregoing to the contrary notwithstanding, Landlord, in Landlord's sole and absolute discretion, may withhold its consent or approval of any Alterations which may adversely affect or impact any Building system or any Building structural component or the structural integrity of the Building.

#### 10.02 PERMITTED ALTERATIONS

Notwithstanding anything in this Article 10 to the contrary, but subject to all other terms and provisions of this Lease, including, but not limited to, the other provisions of this Article 10 and the rules and regulations of the Building in effect from time to time, Tenant shall be permitted to perform, without Landlord's prior consent and without the submission of plans and specifications therefor (unless a permit is otherwise required by applicable Law therefor), but with reasonable advance written notice to Landlord, certain Alterations in the Premises such as repairs, renovations, painting, decorating, recarpeting, and minor construction so long as such Alterations (i) do not materially or adversely affect base Building systems or equipment or structural components of the Building, (ii) do not affect the premises of any other tenant or occupant of the Building, and (iii) do not require governmental permits or other approvals (collectively, "Permitted Alterations").

#### 10.03 FIRST FLOOR LOBBY WORK AND 8410/8420 WALKWAY

Subject to the terms and provisions of this Lease, including, but not limited to, this Article 10 and the rules and regulations of the 8410 Building in effect from time to time, Tenant shall be entitled to construct and maintain in the first (1st) floor lobby of the 8410 Building (but specifically excluding the 8420 Building and the 8430 Building) such Alterations as are reasonably required in connection with Tenant's operational and security needs, including, without limitation, installation of a dedicated visitor reception desk for Tenant, security cards, security turnstiles and gates, finishes, and product displays (collectively, the "8410 Building Lobby Alterations"), so long as such 8410 Building Lobby Alterations are consistent with then applicable 8410 Building standards, and provided further that such 8410 Building Lobby Alterations are otherwise reasonably acceptable to, and have been approved in writing by, Landlord, which approval shall not be unreasonably withheld, conditioned, or delayed. In addition to the foregoing, Tenant may elect to install such Tenant "branding" items within the existing walkway situated between the 8410 Building and the 8420 Building (the "8410/8420 Walkway") as Tenant deems reasonably necessary or appropriate in connection with Tenant's occupancy of the 8410 Building and the 8420 Building, as the case may be, so long as such Tenant "branding" items are reasonably acceptable to, and have been approved in writing by, Landlord, which approval shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, Landlord hereby reserves the right, and shall be permitted (but shall in no event be required), to hereafter replace the 8410/8420 Walkway with another enclosed connecting structure between the 8410 Building and the 8420 Building, all as reasonably determined by Landlord from time to time (provided, however, in such event, (i) Tenant shall be provided a reasonable opportunity to review and provide comments on (but not to approve) the proposed design, plans, and specifications for such replacement connecting structure, and (ii) Tenant may elect to install such Tenant "branding" items within such replacement connecting structure as Tenant deems reasonably necessary or appropriate in connection with Tenant's occupancy of the 8410 Building and the 8420 Building, as the case may be, so long as such Tenant "branding" items are reasonably acceptable to, and have been first approved in writing by, Landlord, which approval shall not be unreasonably withheld, conditioned, or delayed).

#### 10.04 LIENS

Tenant shall not permit any lien or claim for lien of any mechanic, laborer, or supplier or any other lien to be filed against the Complex, the Building, the Common Areas, the land which comprises the Complex, the Premises, or any part of such property, arising out of any Alteration or other work performed, or alleged to have been performed by, or at the direction of, or on behalf of Tenant. If any such lien or claim for lien is filed, Tenant shall, within twenty (20) days after such filing, either have such lien or claim for lien released of record or shall deliver to Landlord a bond or title insurance or other security in form, content, amount, and issued by a company, reasonably satisfactory to Landlord indemnifying the Landlord Parties and each of them against all costs and liabilities resulting from such lien or claim for lien and the foreclosure or attempted foreclosure thereof. If Tenant fails to have such lien or claim for lien so released or to deliver such bond, title insurance, or other security to Landlord, Landlord, without investigating the validity of such lien, may pay or discharge the same and Tenant shall reimburse Landlord upon demand for the amount so paid by Landlord, including Landlord's reasonable expenses and attorneys' fees. If Tenant delivers such bond, title insurance or other security to Landlord with respect to any such lien, Tenant shall thereafter have the right and duty to diligently contest such lien; provided that Tenant shall, in any event, have any such lien released of record prior to final enforcement thereof.

### 11. WAIVER OF CLAIMS AND INDEMNITY

#### 11.01 WAIVER OF CLAIMS

Except to the extent caused by the negligence or willful misconduct of Landlord or any of the Landlord Parties, Landlord shall not be liable to Tenant or any of the Tenant Parties for any damage caused to any of them due to the Building, the Complex, or any part or appurtenances thereof being improperly constructed or being or becoming out of repair, or arising or resulting from fire, explosion, falling plaster, steam, gas, electricity, water, or rain which may leak from any part of the Building or the Complex, or from the pipes, appliances, appurtenances, or plumbing works therein, or from the roof, street, or sub-surface, or from any other place, or resulting from dampness or any other cause whatsoever, or from the acts or omissions of other tenants, occupants, or other visitors to the Building or the Complex; provided, however, that nothing contained in this Section 11.01 shall be deemed to waive or modify Landlord's maintenance and repair obligations as, and to the extent, expressly set forth under Section 9.01 hereof.

#### 11.02 INDEMNIFICATION

To the maximum extent permitted by applicable Law, but subject to the provisions of Section 17.03 hereof, Tenant agrees to indemnify and hold harmless Landlord, Landlord's property manager, Landlord's lender(s), and their respective officers, members, affiliates, partners, employees, agents, servants, contractors, and licensees (each, a "Landlord Party" and collectively, the "Landlord Parties"), and each of them, from and against any and all liabilities, claims, demands, costs, and expenses of every kind and nature (including reasonable attorneys' fees), including, without limitation, those arising from any injury or damage to any person, property, or business to the extent: (a) sustained in or about the Premises; (b) resulting from the negligence or willful misconduct of Tenant, its officers, members, affiliates, partners, employees, agents, servants, contractors, licensees, assignees, or subtenants (each, a "Tenant Party", and collectively, the "Tenant Parties"); or (c) resulting from the failure of Tenant to perform its obligations under this Lease; provided, however, Tenant's obligations under this Section 11.02 shall not apply to injury or damage to the extent resulting from the negligence or willful misconduct of Landlord or any Landlord Party. If any such proceeding is brought against the Landlord Parties, or any of them, Tenant covenants to defend such proceeding at its sole cost. To the maximum extent permitted by

applicable Law, but subject to the provisions of Section 17.03 hereof, Landlord agrees to indemnify and hold harmless Tenant or any Tenant Party from and against any and all liabilities, claims, demands, costs, and expenses of every kind and nature (including reasonable attorneys' fees), including those arising from any injury or damage to any person, property, or business to the extent: (i) sustained in or about the Common Areas of the Complex other than the Premises; (ii) resulting from the negligence or willful misconduct of Landlord or any Landlord Party; or (iii) resulting from the failure of Landlord to perform its obligations under this Lease; provided, however, Landlord's obligations under this Section 11.02 shall not apply to injury or damage to the extent resulting from the negligence or willful misconduct of Tenant or any Tenant Party. If any such proceeding is brought against Tenant or any Tenant Party, Landlord covenants to defend such proceeding at its sole cost.

## 12. LANDLORD'S REMEDIES

### 12.01 EVENTS OF DEFAULT

Each of the following shall constitute an "Event of Default" by Tenant under this Lease: (i) Tenant fails to pay any installment of Rent within five (5) business days after the day it is due, and such failure is not cured within five (5) business days after Tenant's receipt of written notice of default from Landlord (which 5-business day period shall run concurrently with and not be in addition to the statutory landlord's 5-business day notice required under Illinois law in dispossession proceedings); provided, however, that in the event Landlord delivers such default notice to Tenant two (2) times during any calendar year during the Term, then Tenant's failure during such calendar year to pay any subsequent Rent within five (5) business days following the date such Rent is due shall constitute an Event of Default under this Lease without the necessity of Landlord giving Tenant any written default notice; (ii) Tenant fails to observe or perform any of the other covenants, conditions or provisions of this Lease to be observed or performed by Tenant and fails to cure such default within thirty (30) days after written notice to Tenant, unless Tenant is diligently pursuing a cure, in which case such 30-day period shall be extended for such additional time as is reasonably necessary while, and for so long as, Tenant is so diligently pursuing a cure, not to exceed ninety (90) days following such initial written notice, subject to Force Majeure Events and delays to the extent attributable to the acts or omissions of the Landlord Parties (and except in the case of emergencies involving an imminent threat of death, bodily injury, or material and substantial property damage, in which case, such shorter period of time following written notice to Tenant as is reasonable under the circumstances); (iii) the interest of Tenant in this Lease is levied upon under execution or other legal process; (iv) a petition is filed by or against Tenant to declare Tenant bankrupt or seeking a plan of reorganization or arrangement under any Chapter of the Bankruptcy Code, or any amendment, replacement, or substitution therefor, or to delay payment of, reduce or modify Tenant's debts, or any petition is filed (and, with respect to any petition filed against Tenant, is not dismissed within sixty (60) days after its filing) or other action taken to reorganize or modify Tenant's capital structure or upon the dissolution of Tenant; (v) Tenant is declared insolvent by law or any assignment of Tenant's property is made for the benefit of creditors; or (vi) a receiver is appointed for Tenant or Tenant's property.

### 12.02 LANDLORD'S REMEDIES

Upon the occurrence of an Event of Default by Tenant under this Lease, Landlord, at its option, without further notice or demand to Tenant, may, in addition to all other rights and remedies provided in this Lease, at law, or in equity:

A. Terminate this Lease and Tenant's right of possession of the Premises, and recover all damages to which Landlord is entitled under Law, specifically including, without limitation, all Landlord's reasonable expenses of reletting (including repairs, alterations, improvements, additions, legal

fees, and brokerage commissions; provided, any such repairs, alterations, improvements, and additions as aforesaid shall be amortized over their estimated useful life at a rate of eight percent (8%) per annum).

B. Terminate Tenant's right of possession of the Premises without terminating this Lease, in which event Landlord shall use commercially reasonable efforts to relet the Premises, or any part thereof (as further provided under Subsection 12.02.D below), for the account of Tenant, for such rent and term and upon such terms and conditions as are acceptable to Landlord. For purposes of such reletting, Landlord is authorized to repair, alter and improve the Premises to the extent reasonably necessary; provided, any such repairs, alterations, and improvements as aforesaid shall be amortized over their estimated useful life at a rate of eight percent (8%) per annum. If Landlord does not relet the Premises, then Tenant shall pay Landlord monthly on the first day of each month during the period that Tenant's right of possession is terminated, a sum equal to the amount of Rent due under this Lease for such month (less any amount which Landlord could have realized if Landlord relet the Premises to a reputable, creditworthy substitute tenant procured by Tenant and presented to Landlord in writing, which substitute tenant was ready, willing and able to lease the entire Premises from Landlord under a lease in form identical to the form of this Lease). If the Premises are relet and a sufficient sum is not realized from such reletting after payment of all Landlord's reasonable expenses of reletting (including repairs, alterations, improvements, additions, decorations, legal fees, and brokerage commissions; provided, any such repairs, alterations, improvements, and additions as aforesaid shall be amortized over their estimated useful life at a rate of eight percent (8%) per annum) to satisfy the payment of Rent due under this Lease for any month, Tenant shall pay Landlord any such deficiency monthly upon demand. Tenant agrees that Landlord may file suit to recover any sums due to Landlord under this section from time to time and that such suit or recovery of any amount due Landlord shall not be any defense to any subsequent action brought for any amount not previously reduced to judgment in favor of Landlord. If Landlord elects to terminate Tenant's right to possession only without terminating this Lease, Landlord may, at its option, enter into the Premises, remove Tenant's signs and other evidences of tenancy, and take and hold possession thereof, as stated in Article 13; provided, however, that such entry and possession shall not terminate this Lease or release Tenant, in whole or in part, from Tenant's obligation to pay the Rent reserved hereunder for the full Term or from any other obligation of Tenant under this Lease.

C. In the event a petition is filed by or against Tenant seeking a plan of reorganization or arrangement under Chapter 9, 11, or 13 of the Bankruptcy Code, Landlord and Tenant agree, to the extent permitted by Law, that the trustee in bankruptcy shall determine within sixty (60) days after commencement of the case, whether to assume or reject this Lease.

D. Landlord agrees to use commercially reasonable efforts to mitigate damages and relet the Premises, or portions thereof, in accordance with applicable Law.

#### 12.03 ATTORNEYS' FEES

In the event of litigation arising in connection with this Lease or the duties and obligations of the parties under this Lease, then the non-prevailing party, if any, in such litigation shall pay, upon demand, all costs and expenses, including court costs and reasonable attorneys' fees, incurred by the prevailing party in enforcing the non-prevailing party's obligations under this Lease, or resulting from the non-prevailing party's default under this Lease.

#### 12.04 LANDLORD DEFAULT

Tenant shall notify Landlord of any alleged failure by Landlord to perform any of the covenants, conditions, and obligations required to be performed by Landlord under this Lease, including, without limitation, payment of the TI Allowance or the HVAC Diffuser Allowance (as each such term is

hereinafter defined), which notice shall be in writing and shall state with specificity the nature of Landlord's breach, and Tenant shall take no action with respect to such breach as long as Landlord promptly commences to cure such breach within thirty (30) days following Landlord's receipt of such written notice from Tenant (except in the case of emergencies involving an imminent threat of death, bodily injury, or material and substantial property damage within or to the Premises, in which case, such shorter period of time following written notice to Landlord as is reasonable under the circumstances), and thereafter diligently proceeds to complete the cure of such breach within a reasonable time period after Landlord's receipt of such initial written notice from Tenant, not to exceed ninety (90) days following such initial written notice, subject to Force Majeure Events and delays to the extent attributable to the acts or omissions of the Tenant Parties (each, a "Tenant Delay"). If Landlord fails to cure or commence to cure any such default as hereinabove provided (each, a "Landlord Default"), Tenant, at its option, with or without further notice or demand of any kind to Landlord or any other person, shall have the right to pursue any or all of Tenant's rights or remedies under this Lease, at Law, or in equity (including, without limitation, monetary damages, specific performance, and injunctive relief, to the extent applicable) in connection with such Landlord Default.

#### 12.05 TENANT'S REMEDIES

Subject to the applicable terms and provisions of this Lease, including, specifically and without limitation, the draw requirements and other obligations set forth herein, solely in the event that: (i) Landlord fails to disburse any portion of the TI Allowance or the HVAC Diffuser Allowance as and when required under this Lease; (ii) Landlord fails to complete the Landlord Premises Work or the Landlord Non-Premises Work, as the case may be, as and when required under this Lease; or (iii) there is a Landlord Default as hereinabove provided, and so long as Tenant shall have complied with the draw requirements and other obligations set forth in this Lease, Tenant shall have the right to complete the Landlord Premises Work or the Landlord Non-Premises Work, as the case may be, and/or to cure such Landlord Default under this Lease. In addition, Tenant shall also have the right to give Landlord written notice (an "Offset Notice") requesting disbursement of such portion of the TI Allowance or the HVAC Diffuser Allowance, or reimbursement of the costs of the Landlord Premises Work or the Landlord Non-Premises Work, or other costs incurred by Tenant in connection with the cure of such Landlord Default, as the case may be, which Offset Notice shall contain a sentence stating "LANDLORD'S FAILURE TO [DISBURSE SUCH PORTION OF THE TI ALLOWANCE OR THE HVAC DIFFUSER ALLOWANCE] [REIMBURSE TENANT FOR SUCH {LANDLORD PREMISES WORK} {LANDLORD NON-PREMISES WORK} COSTS OR OTHER COSTS OF CURING SUCH LANDLORD DEFAULT] WITHIN SIXTY (60) DAYS AFTER LANDLORD'S RECEIPT OF THIS OFFSET NOTICE SHALL GIVE TENANT THE RIGHT TO OFFSET SUCH [UNDISBURSED AMOUNT] [UNREIMBURSED AMOUNT] AGAINST THE PAYMENT OF MONTHLY BASE RENT," and, in the event that Landlord fails to disburse such portion of the TI Allowance or the HVAC Diffuser Allowance, or reimburse such costs of the Landlord Premises Work or the Landlord Non-Premises Work or other costs, as the case may be, or otherwise dispute Tenant's Offset Notice in writing within sixty (60) days after Landlord's receipt of such Offset Notice, such undisbursed portion of the TI Allowance or the HVAC Diffuser Allowance or such unreimbursed costs of the Landlord Premises Work or the Landlord Non-Premises Work or other costs, as the case may be, may be offset against the next installment of Monthly Base Rent then due Landlord under this Lease (in order of payment) until the entirety of such undisbursed portion of the TI Allowance or the HVAC Diffuser Allowance or such unreimbursed costs of the Landlord Premises Work or the Landlord Non-Premises Work or other costs, as the case may be, have been either fully offset or paid by Landlord in full.

### 13. SURRENDER OF PREMISES

Upon the expiration or termination of this Lease or the termination of Tenant's right to possession of the Premises, Tenant shall surrender and vacate the Premises immediately and deliver possession thereof to Landlord in a clean, good, and tenantable condition, ordinary wear and tear and damage by fire or other casualty excepted, and subject to Tenant's repair obligations specified in this Lease. Upon any termination, Tenant shall be entitled to remove from the Premises all movable trade fixtures and personal property of Tenant without credit or compensation from Landlord, provided Tenant immediately shall repair all damage resulting from such removal and shall restore the Premises to a clean, good, and tenantable condition, ordinary wear and tear and damage by fire or other casualty excepted. In the event possession of the Premises is not immediately delivered to Landlord, or if Tenant shall fail to remove any movable trade fixtures or personal property which Tenant is entitled to remove, Landlord may remove same without any liability to Tenant. Any movable trade fixtures and personal property which may be removed from the Premises by Tenant but which are not so removed shall be conclusively presumed to have been abandoned by Tenant and title to such property shall pass to Landlord without any payment or credit, and Landlord may, at its option and at Tenant's expense, store and/or dispose of such property. On or before the Expiration Date (or on or before expiration of the Permitted Holdover Period (as hereinafter defined), if applicable), Tenant, at its expense, shall remove (i) any air conditioning units installed by or at the direction of Tenant and located on the roof of the Building (or any other building in the Complex) and repair any and all damage to the roof and the Building (or any other building in the Complex, as the case may be) caused by the installation, operation, or removal of such units, (ii) any TI or Alterations or other fixtures or installations which involve structural work, or which constitute alterations or improvements not typically undertaken or installed in commercial office space, or which require extraordinary demolition costs for removal thereof (but specifically excluding (1) any pantries and/or kitchens installed wholly within the Premises, including, without limitation, water supply lines, waste lines and any associated floor penetrations related thereof (but specifically excluding any cafeteria now or hereafter installed in the Building or the Complex by Tenant), and (2) any additional bracing and/or electric power facilities associated with moveable partitions installed wholly within the Premises), so long as Landlord notifies Tenant at the time of Landlord's approval of such TI or Alterations that such TI or Alterations will be required to be removed upon expiration or termination of this Lease, (iii) any and all voice and data cabling and wiring installed by or at the direction of Tenant in any ROFO Space added to the Premises pursuant to Article 30 hereof, any ROFR Space added to the Premises pursuant to Article 33 hereof, or any other space added to the Premises from and after the Date of this Lease, (iv) the 8410 Building Lobby Alterations (as hereinabove defined) and any Alterations installed by or at the direction of Tenant in the 8410/8420 Walkway (or any Tenant "branding" items installed within the replacement connecting structure, as the case may be), unless otherwise directed in writing by Landlord, and so long as Landlord notifies Tenant at the time of Landlord's approval of such 8410 Building Lobby Alterations or 8410/8420 Walkway Alterations (or Tenant "branding" items installed within the replacement connecting structure, if applicable), as the case may be, or any changes thereto, that such 8410 Building Lobby Alterations or 8410/8420 Walkway Alterations (or Tenant "branding" items installed within the replacement connecting structure, if applicable), as the case may be, or any component thereof, will be required to be removed upon expiration or termination of this Lease, (v) the work cafe proposed to be constructed by Tenant on the second (2nd) floor of the Existing Premises, unless otherwise directed in writing by Landlord, and so long as Landlord notifies Tenant at the time of Landlord's approval of such work cafe that such work cafe, or any component thereof, will be required to be removed upon expiration or termination of this Lease (provided, however, that Tenant shall only be required to remove such components of the work cafe that constitute (a) trade fixtures or items personal and proprietary to Tenant's business, or (b) special, unique, atypical, or extraordinary installations of a type not customarily or typically included as part of general commercial office improvements or which involve extraordinary demolition and removal costs, including, by way of example and not of limitation, raised flooring, reinforced flooring, supplemental HVAC, beam or slab cuts or modifications, interior stairways, "black

iron", and any other structural or base Building modifications), and (vi) any interconnecting staircases installed in the Premises, or any portion or portions thereof, by or at the direction of Tenant, whether as part of the TI, any Alterations, or otherwise. In each case, Tenant immediately shall repair all damage resulting from such removal and shall restore those portions of the Premises or the Building affected thereby to a clean, good, and tenantable condition, ordinary wear and tear and damage by fire or other casualty excepted.

#### 14. HOLDING OVER

Tenant shall pay Landlord 150% of the Adjusted Monthly Base Rent then applicable for each month or partial month (prorated for any partial month) during which Tenant retains possession of the Premises, or any part of the Premises (in full floor increments only), after the expiration or termination of this Lease (or the Permitted Holdover Period, if applicable). Tenant shall indemnify Landlord against any and all liabilities and damages sustained by Landlord by reason of such retention of possession (provided, Tenant shall have no liability for consequential, special, or punitive damages hereunder unless and until (i) Tenant shall have so retained possession of the Premises, or any portion thereof, for ninety (90) days or more following the expiration or termination of this Lease (or the Permitted Holdover Period, if applicable), and (ii) Landlord shall have given Tenant not less than sixty (60) days' written notice that Landlord is then negotiating or has entered into a lease or other agreement with a third party for all or any portion of the Premises and Tenant continues to so retain possession of the Premises or any portion thereof beyond the surrender date set forth in such notice). The provisions of this Article 14 shall not constitute a waiver by Landlord of any re-entry rights of Landlord available under this Lease or by law. Notwithstanding the foregoing provisions of this Article 14, upon not less than ninety (90) days' prior written notice to Landlord, Tenant shall be permitted to retain possession of the Premises, or any part of the Premises (in full floor increments only), for a period of up to thirty (30) days after the expiration or termination of this Lease (the "Permitted Holdover Period"), in which event (a) Tenant shall pay Landlord 100% of the Adjusted Monthly Base Rent then applicable hereunder during such Permitted Holdover Period, and (b) Tenant's liability for damages as set forth in this Article 14 shall not apply to the extent relating to Tenant's retention of possession during such Permitted Holdover Period.

#### 15. DAMAGE BY FIRE OR OTHER CASUALTY

##### 15.01 SUBSTANTIAL UNTENANTABILITY

If either the Premises, the Building, or the Complex is rendered substantially untenable (as defined below) by fire or other casualty, then Landlord shall, with reasonable promptness after the occurrence of such damage (but in no event shall such period exceed ninety (90) days), estimate the length of time that will be required to substantially complete the repair and restoration of the damaged portions necessitated by such damage, and if it is so estimated that the amount of time required to substantially complete such repair and restoration will exceed three hundred sixty-five (365) days from the date such damage occurred, then either Landlord or Tenant shall have the right to terminate this Lease as of the date of notice of such election by giving notice to the other party at any time within thirty (30) days after Landlord gives Tenant the notice containing said estimate. Notwithstanding anything to the contrary in the prior sentence, Landlord shall only have such termination right if Landlord is also terminating the leases of tenants which represent a majority of the space in the 8410 Building or the 8420 Building, as the case may be, and Landlord reasonably demonstrates that Landlord does not intend to restore the 8410 Building or the 8420 Building, as the case may be. Unless this Lease is terminated as provided in this paragraph, Landlord shall proceed to repair or restore with reasonable promptness, and using commercially reasonable efforts to complete within the estimated timeframe, the Premises, the Building, and the Complex, other than Alterations, leasehold improvements (including, without

limitation, the TI), and personal property installed by Tenant, to substantially the same condition as existed immediately prior to such fire or casualty.

In the event this Lease is not terminated as a result of such casualty and the repairs and/or restorations are not substantially completed within sixty (60) days following the time period set forth in Landlord's estimate (subject to delays for Force Majeure Events and Tenant Delay), Tenant shall have the right to terminate this Lease on prior written notice to Landlord furnished at any time following the expiration of said time period set forth in Landlord's estimate (unless Landlord substantially completes such repairs and/or restorations prior to Landlord's receipt of Tenant's notice of termination). The foregoing termination rights granted to Tenant (together with the rent abatement rights set forth in Section 15.03 hereof) shall be Landlord's sole liability and Tenant's sole remedy for such failure to so complete such repair and restoration work within the prescribed time periods in the case of substantial untenability.

#### 15.02 INSUBSTANTIAL UNTENANTABILITY

If either the Premises, the Building or the Complex is damaged by fire or other casualty, but is not rendered substantially untenable, then Landlord shall diligently proceed to repair and restore, with reasonable promptness, and using commercially reasonable efforts to complete within the estimated timeframe, the damaged portions thereof, other than Alterations, leasehold improvements (including, without limitation, the TI), and personal property installed by Tenant, to substantially the same condition as existed immediately prior to such fire or casualty, unless such damage to the Premises (if any) occurs during the last twelve (12) months of the Term and the reasonable estimate of time to substantially complete such repairs and restorations exceeds one hundred eighty (180) days, in which event either Landlord or Tenant shall have the right to terminate this Lease as of the date of such fire or other casualty by giving written notice to the other party at any time within thirty (30) days after the date of such fire or other casualty. Notwithstanding anything to the contrary in the prior sentence, Landlord shall only have such termination right if Landlord is also terminating the leases of tenants which represent a majority of the space in the 8410 Building or the 8420 Building, as the case may be, and Landlord reasonably demonstrates that Landlord does not intend to restore the 8410 Building or the 8420 Building, as the case may be.

In the event such repairs or restoration shall not be so completed within one hundred eighty (180) days following the date of the casualty (subject to delays for Force Majeure Events and Tenant Delay), Tenant shall have the right to terminate this Lease upon written notice to Landlord furnished within thirty (30) days following the expiration of said 180-day period (unless Landlord substantially completes such repairs and/or restorations prior to its receipt of Tenant's notice of termination). The foregoing termination rights granted to Tenant (together with the rent abatement rights set forth in Section 15.03 hereof) shall be Landlord's sole liability and Tenant's sole remedy for such failure to so complete such repair and restoration work within the prescribed time periods in the case of insubstantial untenability.

#### 15.03 RENT ABATEMENT

If all or any part of the Premises or Common Areas are damaged by fire or other casualty and this Lease is not terminated, Adjusted Monthly Base Rent shall abate for all or that part of the Premises which are untenable on a per diem and proportionate area basis from the date of the fire or other casualty until Landlord has substantially completed the repair and restoration work in the Premises which it is required to perform hereunder and possession of the Premises is delivered to Tenant, provided, however, that as a result of such fire or other casualty, Tenant does not occupy all or that part of the Premises which are untenable during such period. Notwithstanding the foregoing, if the portion of the Premises so rendered untenable hereunder materially and adversely affects Tenant's ability to use the remainder of

the Premises under normal circumstances for its normal business operations (including, by way of example, but not limitation, the floor(s) on which Tenant's primary computer equipment or servers are located) such that the entire Premises are rendered untenable, then such abatement shall extend to the entire Premises, subject in all events to the terms and provisions hereof. In the event of termination of this Lease pursuant to this Article 15, Adjusted Monthly Base Rent shall be apportioned on a per diem basis and be paid to the date of the termination.

#### 15.04 TENANT'S RESTORATION

Whether or not Tenant elects to apply all or any portion of the proceeds from the insurance required under Subsection 17.01(2) hereof thereto, if all or any part of the Premises are damaged by fire or other casualty and this Lease is not terminated, Tenant shall promptly and with due diligence repair and restore the leasehold improvements, TI, HVAC Diffuser Work, Alterations, and personal property previously installed by Tenant pursuant to this Lease.

#### 15.05 UNTENANTABILITY

As used in this Lease, the term "untenantable" means (i) with respect to the Premises, or any portion thereof, that the Premises, or such portion thereof, cannot reasonably be used and occupied by Tenant in the ordinary and normal course of its business with no material and adverse disruption in Tenant's work environment and in accordance with applicable Laws, or that the Premises, or such portion thereof, is inaccessible to Tenant hereunder, and (ii) with respect to any other portion of the Complex, that such portion of the Complex cannot reasonably be used and occupied for its intended use due to damage to such portion of the Complex or such intended use being prohibited by applicable Law.

### 16. EMINENT DOMAIN

#### 16.01 SUBSTANTIAL TAKING

If all or any part of the Premises, the Building, or the Complex is permanently taken or condemned by any competent authority for any public use or purpose (including a deed given in lieu of condemnation), which renders the Premises substantially untenable (as defined in Article 15), this Lease shall terminate as of the date title vests in such authority, and Adjusted Monthly Base Rent shall be apportioned as of such date.

#### 16.02 INSUBSTANTIAL TAKING

If any part of the Premises, the Building, or the Complex is taken or condemned for any public use or purpose (including a deed given in lieu of condemnation) and this Lease is not terminated pursuant to Section 16.01, Adjusted Monthly Base Rent shall be reduced for the period of such taking by an amount which bears the same ratio to Adjusted Monthly Base Rent then in effect as the number of square feet of rentable area in the Premises so taken or condemned, if any, bears to the number of square feet of rentable area specified in Subsection 1.01.I (as the same may be adjusted as provided therein). Landlord, upon receipt and to the extent of the award in condemnation or proceeds of sale, shall make necessary repairs and restorations (exclusive of Alterations, leasehold improvements (including, without limitation, the TI), and personal property installed by Tenant) to restore the Premises, Building, and Complex remaining to as near its former condition as circumstances will permit, and to the extent necessary to constitute the portion of same not so taken or condemned as a complete architectural and economically efficient unit. In the event of any taking or condemnation described in this Section 16.02, the rentable area of the Premises stated in Subsection 1.01.I (as the same may be adjusted as provided therein) and the rentable area of the Complex as specified in this Lease, shall be reduced, respectively, for all purposes

under this Lease by the number of square feet of rentable area of the Premises, if any, and the Complex, if any, so taken or condemned. Notwithstanding the foregoing, if the award in condemnation (or proceeds of sale) is insufficient to pay for the foregoing repairs and restorations required of Landlord hereunder, and if Landlord elects not to perform such repairs and restorations in excess of the award in condemnation (or proceeds of sale) as a result thereof, then Landlord shall promptly notify Tenant of such election, and, to the extent such taking renders any portion of the Premises untenable and Landlord so elects not to repair or restore such portion of the Premises, Tenant shall thereafter have the right to terminate this Lease effective as of such date as is designated by Tenant in a written notice thereof to Landlord given not later than sixty (60) days after Tenant's receipt of notice of such election by Landlord (which date so designated by Tenant shall be no more than ninety (90) days after the subject taking). In the event the repairs or restoration shall not be so completed within one hundred eighty (180) days following the date of taking (subject to delays for Force Majeure Events and Tenant Delay), Tenant shall have the right to terminate this Lease upon written notice to Landlord furnished within thirty (30) days following the expiration of said 180-day period (unless Landlord substantially completes such repairs and/or restorations prior to its receipt of Tenant's notice of termination). In the event such repairs or restoration shall not be so completed within three hundred sixty (360) days following such taking (delays for Force Majeure Events notwithstanding, but subject to Tenant Delay), Tenant shall have the right to terminate this Lease upon written notice to Landlord furnished within thirty (30) days following the expiration of said 360-day period (unless Landlord substantially completes such repairs and/or restorations prior to its receipt of Tenant's notice of termination). The foregoing termination rights granted to Tenant shall be Landlord's sole liability and Tenant's sole remedy for such failure to so complete such repair and restoration work within the prescribed time periods.

#### 16.03 COMPENSATION

Landlord shall be entitled to receive the entire price or award from any such sale, taking, or condemnation without any payment to Tenant, and Tenant hereby assigns to Landlord Tenant's interest, if any, in such award; provided, however, Tenant shall have the right separately to pursue against the condemning authority an award in respect of the loss, if any, to leasehold improvements paid for by Tenant without any credit or allowance from Landlord, Tenant's trade fixtures and moving expenses, including fees of consultants, brokers, attorneys, and other professionals incurred by Tenant in connection with moving to another location provided there is no diminution of Landlord's award as a result.

### 17. INSURANCE

#### 17.01 TENANT'S INSURANCE

A. During the Term hereof, Tenant shall, at its expense, purchase and keep in full force and effect:

(1) Commercial General Liability ("CGL") insurance written on an occurrence basis, covering the Premises and all operations of Tenant in or about the Premises, such coverage to include Tenant's contractors and subcontractors, against claims for bodily injury, property damage and product liability and to include contractual liability coverage insuring Tenant's indemnification obligations under this Lease, to be in combined single limits of not less than \$1,000,000 each occurrence for bodily injury and property damage, \$50,000 each occurrence for damage to rented premises, \$5,000 medical expenses (any one person), \$1,000,000 for personal and advertising injury, \$2,000,000 for products/completed operations aggregate, and \$1,000,000 for bodily injury and property damage combined for automobile liability covering all owned, leased, non-owned, hired, rented or borrowed vehicles and related equipment, and to have general aggregate limits of not less than \$2,000,000, and Umbrella Liability Insurance in an amount not

less than \$10,000,000 for each policy year. The certificate of insurance evidencing the CGL form of policy shall specify on the face thereof the limits of such policy, and such insurance shall include Landlord as an additional insured;

(2) Insurance covering all of the items included in Tenant's leasehold improvements (including, without limitation, the TI), heating, ventilating and air conditioning equipment maintained by Tenant, trade fixtures, merchandise and personal property from time to time in, on or upon the Premises, and Alterations made by Tenant pursuant to this Lease, in an amount not less than one hundred percent (100%) of their full replacement value from time to time during the Term, providing protection against perils included within the standard form of "all-risks", "special form", or comparable fire and casualty insurance policy. Such "all risk", "special form", or comparable property insurance carried by Tenant shall effectively provide for waiver of rights of subrogation against Landlord with respect to losses payable under such policy under Tenant's insurance;

(3) Workers' Compensation and Employer's Liability insurance affording statutory coverage and containing statutory limits, but in no event less than \$500,000 for each accident, \$500,000 for disease - each employee, and \$500,000 for disease - policy limit; and

(4) Insurance against such other perils and in such amounts as Landlord may from time to time reasonably require upon not less than thirty (30) days' prior written notice, such requirement to be made on the basis that the required insurance is customary at the time for prudent tenants of Comparable Buildings. In making such determination, Landlord shall take into consideration any relevant factors or occurrences, including, but not limited to, substantial increases in the level of jury verdicts or judgments or the passage of state, federal, or other governmental compensation plans, or Laws which would materially increase Landlord's exposure to risk.

B. All insurance required to be maintained by Tenant shall be in form reasonably acceptable to Landlord and shall be issued by insurance companies with a rating and financial size of not less than "A-VIII" in the most current available "Best's Insurance Reports", and shall be licensed or authorized to do business in the State of Illinois. Any insurance provided for in Subsection 17.01.A above shall be primary and non-contributory (but solely with respect to Tenant's indemnity obligations under this Lease), and, except for the Worker's Compensation Insurance and Employer's Liability Insurance required hereunder, shall name Landlord, Landlord's Mortgagee (as hereinafter defined), if any, and their respective officers, partners, members, agents, employees, constituents, and affiliate entities as additional insureds for the Premises, as their interests may appear, and shall, in the case of the property insurance provided for in Clause (2) of Subsection 17.01.A above, include a waiver of subrogation in favor of Landlord and shall be subject to approval by Landlord. Each policy shall also contain an undertaking by the insurer that the policy will not lapse or be canceled, except after not less than thirty (30) days' prior written notice to Landlord of the lapse or cancellation (or, alternatively, Tenant will be required to so provide Landlord with not less than thirty (30) days' prior written notice of any such lapse or cancellation). Tenant shall furnish to Landlord, if and whenever requested by it, certificates or other evidence reasonably acceptable to Landlord as to the insurance from time to time effected by Tenant and its renewal or continuation in force. Renewal policies shall be obtained, and certificates delivered to Landlord, at least thirty (30) days prior to expiration. The description of location on the certificate of insurance must reference the Premises and the Building. All costs, premiums, and deductibles for the above policies shall be the sole responsibility of Tenant. All liability policies shall provide that defense costs from any claim will apply outside the applicable limits of insurance. No deductible or self-retention amount in any insurance required by Tenant hereunder shall apply to Landlord or any other additional insured.

C. Notwithstanding anything herein to the contrary, it is acknowledged and agreed that Landlord has advised (but has not required) Tenant to obtain Business Interruption Insurance equal to not less than fifty percent (50%) of the estimated gross earnings (as defined in the standard form of business interruption insurance policy) of Tenant at the Premises issued on an "all risks" basis (or its equivalent). Any failure or refusal of Tenant to obtain such insurance shall be at Tenant's sole risk, and in no event shall Landlord have any liability or responsibility whatsoever for, nor shall Rent payable hereunder abate in connection with, matters or occurrences which would or should have been covered under such insurance had Tenant obtained and/or maintained the same.

D. Notwithstanding anything herein to the contrary, any insurance provided for in Clause (1) of Subsection 17.01.A may be maintained by Tenant by means of a policy or policies of blanket insurance, covering additional items or locations or insureds, provided, however, that: (i) Landlord and any other parties in interest from time to time designated by Landlord to Tenant shall be named as an additional insured thereunder as its interest may appear; and (ii) the requirements set forth in this Section 17.01 are otherwise satisfied.

#### 17.02 LANDLORD'S INSURANCE

A. During the Term hereof, Landlord shall, in a manner comparable to other Comparable Buildings, purchase and keep in full force and effect:

(1) "All risk", "special form", or comparable property insurance on the 8410 Building, the 8420 Building, and the 8430 Building, and all personal property of Landlord in the Complex (excluding, however, Tenant's TI and other leasehold improvements, heating, ventilating and air conditioning equipment maintained by Tenant, trade fixtures, merchandise, and personal property from time to time in, on or upon the Premises, and Alterations made by Tenant pursuant to this Lease), in an amount not less than one hundred percent (100%) of their full replacement value from time to time during the Term, providing protection against perils included within the standard form of "all-risks", "special form", or comparable fire and casualty insurance policy. Such "all risk", "special form", or comparable property insurance carried by Landlord shall effectively provide for waiver of rights of subrogation against Tenant with respect to losses payable under such policy.

(2) CGL insurance, including contractual liability insurance covering Landlord's indemnity obligations hereunder, with minimum coverages of not less than \$1,000,000 each occurrence for bodily injury and property damage, \$50,000 each occurrence for damage to rented premises, \$5,000 medical expenses (any one person), \$1,000,000 for personal and advertising injury, \$2,000,000 for products/completed operations aggregate, and Umbrella Liability Insurance in an amount not less than \$10,000,000 for each policy year;

(3) Workers' Compensation in statutory amounts and Employers' Liability insurance of not less than \$500,000 each occurrence; and

(4) Such other insurance against such other perils and in such amounts as Landlord may from time to time deem appropriate, such determination to be made on the basis that such insurance is customary at the time for prudent owners of Comparable Buildings.

B. All insurance maintained by Landlord hereunder shall allow for commercially reasonable deductibles, as determined by Landlord in its commercially reasonable discretion and in a manner consistent with Comparable Buildings.

### 17.03 WAIVER OF CLAIMS AND SUBROGATION

Notwithstanding anything to the contrary set forth hereinabove, Landlord and Tenant do hereby waive any and all claims against one another for damage to or destruction of real or personal property to the extent such damage or destruction can be covered by "all risks" property insurance of the type described above. The risk to be borne by each party shall also include the satisfaction of any deductible amounts required to be paid under the applicable "all risks" fire and casualty insurance carried by the party whose property is damaged, and each party agrees that the other party shall not be responsible for satisfaction of such deductible. These waivers shall apply if the damage would have been covered by a customary "all risks" insurance policy, even if the party fails to obtain such coverage. The intent of this provision is that each party shall look solely to its insurance with respect to property damage or destruction which can be covered by "all risks" insurance of the type described above. Each such policy shall include a waiver of all rights of subrogation by the insurance carrier against the other party, its agents and employees with respect to property damage covered by the applicable "all risks" fire and casualty insurance policy.

### 18. RULES AND REGULATIONS

Subject to the terms and provisions of this Lease, Tenant agrees for itself and for all Tenant Parties to comply with the following rules and regulations and with all reasonable modifications and additions thereto which Landlord may from time to time make, to the extent that they are applicable to all tenants generally in the Complex (provided that Tenant shall be entitled to prior written notice of any such modifications or additions to such rules and regulations before Tenant shall be required to so comply therewith, and such modifications or additions to such rules and regulations shall not materially, adversely affect Tenant's use of the Premises or Common Areas as permitted hereunder): (1) Any sign, lettering, picture, notice or advertisement installed within the Premises which is visible from the public corridors within the Building shall be installed in such manner and be of such character and style as Landlord shall approve in writing (which approval shall not be unreasonably withheld, conditioned, or delayed). No sign, lettering, picture, notice, or advertisement shall be placed on any outside window or in a position to be visible from outside the Building without Landlord's approval (which approval shall not be unreasonably withheld, conditioned or delayed); (2) Tenant shall not use the name "U.S. Cellular Plaza" (as such name may hereafter be changed pursuant to Article 36 hereof) for any purpose other than Tenant's business address; (3) Tenant shall not use the name "U.S. Cellular Plaza" (as such name may hereafter be changed pursuant to Article 36 hereof) for Tenant's business address after Tenant vacates the Premises; (4) [Intentionally Omitted]; (5) sidewalks, entrances, passages, courts, corridors, halls, elevators and stairways in and about the Premises shall not be obstructed nor shall objects be placed against glass partitions, doors or windows which would be unsightly from the corridors of the Building or from the exterior of the Building; (6) No animals, pets, bicycles, or other vehicles shall be brought or permitted to be in the Building or the Premises (except for bona fide service animals in the company of a disabled person); (7) Room to room canvasses to solicit business from other tenants of the Complex are not permitted; (8) Tenant shall not waste electricity, water, or air conditioning and shall cooperate fully with Landlord to assure the most effective and efficient operation of the heating and air conditioning systems of the Building and all controls shall be adjusted only by authorized Building personnel; (9) All corridor doors shall remain closed at all times; (10) Landlord shall have the right to retain a key to all locks in the Premises; (11) Tenant assumes full responsibility for protecting the Premises from theft, robbery, and pilferage except to the extent due to the gross negligence or willful and wanton misconduct of any of the Landlord Parties, or to the breach by any of the Landlord Parties of its duties or obligations under this Lease. Except during Normal Business Hours, Tenant shall keep all doors to the Premises locked and other means of entry to the Premises closed and secured; (12) Only machinery or mechanical devices of a nature directly related to Tenant's ordinary use of the Premises shall be installed, placed, or used in the Premises and the installation and use of all such machinery and mechanical devices is subject

to the other rules contained in this Article 18 and the other portions of this Lease; (13) Except with the prior written approval of Landlord (which approval shall not be unreasonably withheld, conditioned, or delayed), or as otherwise expressly provided in this Lease, all cleaning, repairing, janitorial, decorating, painting, or other services and work in and about the Premises shall be done only by authorized Building personnel; (14) Safes, furniture, equipment, machines, and other large or bulky articles shall be brought to the Building and into and out of the Premises at such times and in such manner as Landlord shall direct (including the designation of elevator) and at Tenant's sole risk and cost. Prior to Tenant's removal of such articles from the Building, Tenant shall obtain written authorization of the office of the Building and shall present such authorization to a designated employee of Landlord; (15) Tenant shall not in any manner deface or damage the Complex; (16) Inflammables such as gasoline, kerosene, naphtha, and benzene, or explosives or any other articles of an intrinsically dangerous nature are not permitted in the Building or Premises; (17) Tenant shall ascertain from Landlord the maximum amount of electrical current which can safely be used in the Premises, taking into account the capacity of the electric wiring of the Building and the Premises and the needs of other tenants, and shall not use more than such safe capacity (provided, Landlord's consent to the installation of electrical equipment shall not relieve Tenant from the obligation not to use more electricity than such safe capacity); (18) To the extent permitted by Law, Tenant shall not permit picketing or other union activity involving its employees in the Complex, except in those locations and subject to time and other limitations as to which Landlord may give prior written consent (which consent shall not be unreasonably withheld, conditioned, or delayed so long as the same do not materially or adversely affect or interfere with the operation of the Complex); (19) Tenant shall not enter into or upon the roof or basement of the Building or any storage, heating, ventilation, air-conditioning, mechanical, or elevator machinery housing areas (excluding any located wholly within and exclusively serving the Premises); (20) Tenant shall not distribute literature, flyers, handouts, or pamphlets of any type in any of the Common Areas without the prior written consent of Landlord; (21) [Intentionally Omitted]; (22) Tenant shall not permit the use of any apparatus for sound production or transmission in such manner that the sound so transmitted or produced shall be audible or vibrations therefrom shall be detectable beyond the Premises; (23) Tenant shall keep all electrical and mechanical apparatus free of vibration, noise and air waves which may be transmitted beyond the Premises; (24) Tenant shall not permit objectionable odors or vapors to emanate from the Premises (provided, however, that (i) the emanation of reasonable and customary odors associated with cooking and food service from Tenant's work cafe in the 8410 Building shall not be deemed a violation of this Clause (24), (ii) notwithstanding the foregoing Clause (i), Landlord makes no representation or warranty of any type whatsoever to Tenant with respect to the reasonableness, pervasiveness, or nature of any such odors from time to time, and (iii) in the event that Landlord receives any complaints from other tenants or occupants of the Complex in connection with such cooking and food odors from Tenant's work cafe, Tenant shall be solely responsible for undertaking, at Tenant's sole cost and expense, such remedial efforts as shall be reasonably required in order to correct or rectify such complaints); (25) Tenant shall not place a load upon any floor of the Premises exceeding the floor load capacity for which such floor was designed or allowed by law to carry; (26) No floor covering shall be affixed to any floor in the Premises by means of glue or other adhesive, unless the installation procedure is approved by Landlord (which consent shall not be unreasonably withheld, conditioned, or delayed); and (27) Tenant shall not permit smoking in the Common Areas (other than within those specifically designated smoking areas located within the parking areas from time to time).

Landlord shall not be responsible for the violation of any of the foregoing rules and regulations by other tenants of the Complex and shall not be obligated to enforce the same against other tenants (except to the extent that the failure to so enforce would result in a violation of Landlord's obligations under this Article 18 or would constitute discriminatory enforcement as described in the next sentence). Without limiting the preceding sentence, Landlord agrees it shall not unreasonably discriminate against Tenant in the enforcement of the Complex's rules and regulations. In the event of a conflict between the

other terms and provisions of this Lease and this Article 18, the terms and provisions of this Lease shall govern.

#### 19. LANDLORD'S RIGHTS

Subject to the terms and provisions of this Lease, Landlord shall have the following rights exercisable without notice (except as expressly provided to the contrary) and without being deemed an eviction or disturbance of Tenant's use or possession of the Premises or giving rise to any claim for set-off or abatement of Rent: (1) To change the name or street address of the Building or the Complex, upon thirty (30) days' prior written notice to Tenant and in accordance with Article 36; provided, solely in the event that Landlord voluntarily changes the Building's or Complex's street address or name (other than any cessation of the "U.S. Cellular Plaza" designation for the Complex generally), Landlord shall reimburse Tenant for the actual, reasonable, out-of-pocket costs incurred by Tenant in replacing a reasonable quantity of Tenant's then-existing stationery stocks to the extent that the same reflect the name or street address of the Building or the Complex, as the case may be, up to a maximum of Ten Thousand and No/100 Dollars (\$10,000.00) per change, which reimbursement shall be made within thirty (30) days following Landlord's receipt of a detailed written invoice therefor; (2) To install, affix, and maintain all signs on the exterior and/or interior of the Building and in and about the Complex (except the interior of the Premises and, so long as Tenant is then leasing the entirety of the Building, the interior of the Building, and provided, further, that, so long as Tenant is then leasing the entirety of the Building, Landlord will not place any additional exterior signage on the Building without the prior written approval of Tenant, which approval shall not be unreasonably withheld, conditioned, or delayed); (3) Subject to the terms and provisions of Section 35 hereof, to designate and/or approve prior to installation, all types of signs, window shades, blinds, drapes, awnings, or other similar items, and all internal lighting that may be visible from the exterior of the Premises; (4) Upon at least twenty-four (24) hours prior written notice to Tenant (which written notice may be in the form of an e-mail notification), to display the Premises to prospective tenants at reasonable hours during the last fifteen (15) months of the Term; (5) Upon reasonable written notice to Tenant, to change the arrangement of entrances, doors, corridors, elevators, and stairs in the 8420 or the 8430 Building, provided that no such change shall materially adversely affect access to the Premises; (6) To grant to any party the exclusive right to conduct any business or render any service in or to the Building, provided such exclusive right shall not operate to prohibit Tenant from using the Premises for the purposes permitted hereunder; (7) To prohibit the placing of vending or dispensing machines of any kind in or about the Premises other than for use by Tenant's employees, customers, guests, invitees, and agents; (8) [Intentionally Omitted]; (9) To close the Building after Normal Business Hours, except that Tenant and its employees and invitees shall be entitled to admission at all times, under such reasonable regulations as Landlord prescribes for security purposes; (10) To take any and all reasonable measures, including inspections and repairs to the Premises or to the Building, as may be necessary or desirable in the operation or protection thereof, provided such repairs do not materially restrict Tenant's ability to access the Premises or the ability of Tenant to use and occupy the Premises as permitted hereunder, and in the absence of an emergency, Landlord shall (i) give reasonable notice to Tenant, commensurate with the circumstances, prior to entry upon the Premises under this Article 19, and (ii) use all reasonable efforts to minimize any interference with Tenant's use of and business operations at the Premises during the course of any actions taken within the Premises under this Article 19, provided further, however, that Landlord in no event shall be required to conduct any such work at hours other than Normal Business Hours except to the extent that such work is of a type customarily performed during non-business hours at Comparable Buildings and would materially interfere with Tenant's conduct of business at the Premises if performed during Normal Business Hours, and is not of a nature that needs to be done on an emergency basis, in which event Landlord shall perform such work after Normal Business Hours, at no additional cost to Tenant on account thereof, other than as part of Operating Expenses as and to the extent otherwise permitted hereunder; (11) To retain at all times master keys or pass keys to the Premises; (12) To install, operate, and maintain security systems which monitor, by closed circuit

television or otherwise, all persons entering and leaving the Complex; and (13) To, upon reasonable prior written notice to Tenant, install and maintain pipes, ducts, conduits, and wires located in the Premises which serve other parts or other tenants of the Building, provided that in performing any such work, Landlord shall use commercially reasonable efforts to minimize disruption of Tenant's business activities at the Premises and Landlord shall restore, within a reasonable timeframe, any damage to the Premises to the extent caused by any such work.

## 20. ESTOPPEL CERTIFICATES

Tenant shall from time to time, upon not less than ten (10) business days' prior written request by Landlord or any Mortgagee or Ground Lessor (as hereinafter defined) of the Complex, deliver to Landlord or such Mortgagee or Ground Lessor a statement in writing certifying: (1) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease, as modified, is in full force and effect and setting forth the modifications); (2) the amount of Adjusted Monthly Base Rent then payable under this Lease and the date to which Rent has been paid; (3) that, to Tenant's knowledge, Landlord is not in default or claimed to be in default under this Lease, or, if in default or claimed to be in default, a detailed description of such default(s) or claims of default, as the case may be; (4) that Tenant is or is not in possession of the Premises, as the case may be; and (5) such other factual information as may be reasonably requested.

Landlord agrees that from time to time upon not less than ten (10) business days' prior request by Tenant, Landlord will complete, execute and deliver to Tenant or Tenant's designee a written estoppel certificate certifying: (i) that this Lease is unmodified and is in full force and effect (or if there have been modifications, that this Lease, as modified, is in full force and effect and setting forth the modifications); (ii) the amount of the monthly installments of Adjusted Monthly Base Rent then required to be paid under this Lease; (iii) the date to which Adjusted Monthly Base Rent has been paid; (iv) that Landlord has not delivered any notice of default to Tenant which remains uncured (or if Landlord has delivered such a notice which remains outstanding, than a description of the nature thereof in reasonable detail); and (v) such other factual information as may be reasonably requested.

## 21. [INTENTIONALLY OMITTED]

## 22. ADJUSTMENTS TO MONTHLY BASE RENT

### 22.01 DEFINITIONS

For the purposes of this Article 22, the following words and phrases shall have the following meanings:

A. "Adjustment Date" shall mean January 1, 2016 and each January 1 thereafter occurring within the Term.

B. "Adjustment Year" shall mean each calendar year during which an Adjustment Date occurs.

C. [Intentionally Deleted]

D. "Operating Expenses" shall mean (subject to the terms and provisions of this Subsection 22.01.D, including, without limitation, the exclusions from Operating Expenses described below) all costs, expenses, and disbursements of every kind and nature which Landlord shall pay or become obligated to pay in connection with the management, operation, maintenance, replacement, and

repair of all buildings, improvements, and land comprising the Complex and of the personal property, fixtures, machinery, equipment, systems, and apparatus located in or used in connection therewith (which costs, expenses, and disbursements shall be generally consistent with operating expenses being incurred by owners of Comparable Buildings). Operating Expenses shall include, without limitation, the following: (1) insurance premiums and deductible amounts, including, without limitation, for commercial general liability, "all risks" property, rent loss and other coverages carried by Landlord on the Complex; (2) all costs related to the providing of water, heating, lighting, ventilation, sanitary sewer, air conditioning, and other utilities in the Complex, but specifically excluding the costs of providing electricity or power throughout the Complex to the extent paid or obligated to be paid separately by Tenant or any other tenants of the Complex; (3) janitorial and maintenance expenses, including (without limitation), (a) janitorial services and janitorial supplies and other materials used in the operation and maintenance of the Building and/or the Complex, and (b) the cost of maintenance and service agreements on equipment, window cleaning, grounds maintenance, pest control, access control services, trash and snow removal, and other similar services or agreements; (4) management fees (or a charge equal to fair market management fees if Landlord provides its own management services), not to exceed, in either case and on an annual basis, three percent (3%) of gross revenues attributable to the Complex for such year (excluding, however, separately metered electricity charges attributable to tenant spaces and paid or obligated to be paid separately by the tenants thereof), and the market rental value of a management office (provided, the market rental value of the management office shall be adjusted to deduct therefrom, if and as appropriate from time to time, any portions thereof which are not utilized for the management of the Complex from time to time); (5) the costs, amortized over the applicable useful life, of any capital improvement made to the Building and/or the Complex by or on behalf of Landlord which is required under any Law that was not applicable to the Building and/or the Complex as of the Date of this Lease, and the costs, amortized over the applicable useful life, of the acquisition and installation of any device, equipment, or improvement designed to improve the operating efficiency of any system within the Complex which is reasonably intended to reduce Operating Expenses (but only to the extent of the projected savings attributable thereto as reasonably determined by Landlord), all of which capital improvement costs shall include interest (except to the extent that Landlord does not incur any finance charges with respect thereto) thereon, which interest shall be at Landlord's actual cost of borrowing with respect thereto; (6) all services, supplies, repairs, replacements, or other expenses directly and reasonably associated with servicing, maintaining, managing, and operating the Complex, including, but not limited to the lobby, vehicular and pedestrian traffic areas, and other Common Areas; (7) wages and salaries of Landlord's employees (not above the level of Building or Complex manager or whatever title represents the on-site management representative primarily responsible for management of the Building and/or the Complex) engaged in the maintenance, operation, repair, and services of the Building and/or the Complex, including taxes, insurance, educational expenses and customary fringe benefits; (8) legal and accounting costs relating to the general operation of the Complex; (9) subject to Clause (5) hereof, costs to maintain and repair the Complex; (10) landscaping and security costs unless Landlord hires a third party to provide such services pursuant to a service contract and the cost of that service contract is already included in Operating Expenses as described above; (11) costs of operating, maintaining, repairing, equipping, and otherwise operating the Fitness Center; (12) costs and expenses to the extent relating to any food service operations at the Complex in effect from time to time, if any, but excluding any rent concessions, rent abatements, guaranteed profits, or capital improvements (except for such capital improvements as are expressly permitted above) to the extent relating thereto (provided, such costs shall be reduced by deducting therefrom in each case the net income received by Landlord, if any, from such food service operations); (13) costs of maintaining, repairing, insuring, and replacing (subject to the limitations hereinabove set forth with respect to capital improvements) the parking garage and parking areas serving the Complex; (14) subject to the terms and provisions of Section 37 hereof, upgrade, legal compliance, and other costs incurred in order to keep and maintain the Backbone Work in compliance with applicable Laws; and (15) subject to the terms and provisions of Section 37 hereof, upgrade, legal compliance, and other costs incurred in order to keep and maintain the Restroom Work in compliance

with applicable Laws (subject, however, to the amortization provisions set forth in Clause (5) above to the extent that such upgrade, compliance, or other costs relate to capital improvements hereunder).

Operating Expenses shall not include the following: (i) costs of improvements, allowances, concessions, and alterations of the Premises and the premises of other tenants of the Complex and relocations of such premises; (ii) charges for depreciation or amortization of the Buildings and improvements comprising the Complex; (iii) interest and principal payments on mortgages or any loan fees payable in connection therewith; (iv) ground rental payments; (v) real estate brokerage and leasing commissions; (vi) expenses incurred in negotiating leases and enforcing obligations of other tenants of the Complex; (vii) salaries and other compensation of executive officers of the Manager senior to the individual Building or Complex manager (or whatever title represents the on-site management representative primarily responsible for management of the Building and/or Complex); (viii) any expenditures for which Landlord has been reimbursed (other than pursuant to rent adjustment and escalation provisions provided in leases); (ix) capital repairs or improvements to the Complex (except as expressly permitted in the preceding paragraph); (x) costs or other items included within the meaning of the term "Taxes" or any type of taxes and other matters specifically excluded from the definition of "Taxes" hereunder; (xi) repairs, alterations or replacements either (a) due to insured damage, to the extent of net insurance proceeds received by Landlord in connection therewith, or (b) resulting from a taking or condemnation for which net condemnation proceeds are paid to Landlord, to the extent of such net condemnation proceeds; (xii) costs of tenant services not rendered to all tenants; (xiii) capital costs for curing existing violations of Laws in the Complex, except to the extent that such violations arise due to Laws enacted after the Date of this Lease; (xiv) leasing and promotional expenses; (xv) costs involved in ownership, as distinguished from management operations (including, but not limited to, title insurance, litigation involving title, and trustee charges); (xvi) fines, interest, and penalties in connection with acts of any Landlord Parties; (xvii) amounts paid to subsidiaries or affiliates of Landlord for services to the Complex, to the extent only that the costs of such services exceed the competitive cost of such services were they not so rendered by a subsidiary or affiliate; (xviii) damages awarded against Landlord or other costs incurred directly by reason of any Landlord Party's breach of any agreement or lease or any Landlord Party's negligent or willful conduct; (xix) costs for repairs, maintenance, replacements, or services to the extent that Landlord is directly reimbursed from warrantics, guaranties, or any other source (other than payments by tenants of operating expenses and taxes, such as Operating Expenses and Taxes); (xx) amounts incurred in connection with Landlord's defense of title to or interest in the real property comprising the Complex; (xxi) legal costs and fees incurred in connection with lease disputes and lease enforcement actions with tenants or occupants of the Complex; (xxii) costs, other than those incurred for ordinary maintenance, repair, security, and insurance, for sculpture, paintings, or other objects of art located within Common Areas, and costs arising from Landlord's political or charitable contributions; (xxiii) costs and expenses incurred as a result of the renaming of the Complex by Landlord; and (xxiv) costs or other services or alterations, improvements, or work performed for the singular benefit of another tenant or occupant of the Building and/or the Complex.

E. "Per Square Foot Operating Expenses" shall mean, with respect to the entirety of the Premises then demised hereunder, the amount of Operating Expenses for any Adjustment Year divided by 637,484 square feet (being the deemed rentable office area of the Complex for such space for such period).

F. "Per Square Foot Taxes" shall mean, with respect to the entirety of the Premises then demised hereunder, the amount of Taxes for which payment is due or made in an Adjustment Year divided by 637,484 square feet (being the deemed rentable office area of the Complex for such space for such period).

G. "Taxes" shall mean all federal, state, and local governmental taxes, assessments, and charges (including transit or transit district taxes or assessments) of every kind or nature, whether general, special, ordinary, or extraordinary, which Landlord shall pay or become obligated to pay because of or in connection with the ownership, leasing, management, control or operation of all buildings, improvements, and land comprising the Complex, or of the personal property, fixtures, machinery, equipment, systems, and apparatus located therein or used in connection therewith (including any rental or similar taxes levied in lieu of or in addition to general real and/or personal property taxes). For purposes hereof, Taxes for any year shall be Taxes which are due for payment or paid in that year (as reflected in the tax bills due and payable in such year), rather than Taxes which are assessed or become a lien during such year. There shall be included in Taxes for any year the reasonable amount of all fees, costs, and expenses (including reasonable attorneys' fees) paid by Landlord during such year in seeking or obtaining any refund or reduction of Taxes. Taxes in any year shall be reduced by the net amount of any tax refund, rebate, or reduction received by Landlord during such year. If a special assessment payable in installments is levied against the Complex, Taxes for any year shall include only the installment of such assessment and any interest payable or paid during such year. Taxes shall not include any federal, state, or local sales, use, franchise, capital stock, inheritance and succession taxes, gift, general income, transfer taxes, or estate taxes, except that if a change occurs in the method of taxation resulting in whole or in part in the substitution of any such taxes, or any other assessment, for any Taxes as above defined, such substituted taxes or assessments shall be included in the Taxes. There shall be excluded from Taxes all fees, fines, penalties, and interest due to the delinquent payment by Landlord of any tax or assessment comprising Taxes (so long as Tenant timely (i.e., within any notice and cure periods applicable thereto) paid to Landlord Tenant's Proportionate Share of taxes as herein provided).

#### 22.02 ADJUSTMENTS TO MONTHLY BASE RENT

#### 22.03 PROJECTIONS

Subject to Section 22.08, for purposes of calculating Taxes and Operating Expenses for any Adjustment Year, Landlord may make commercially reasonable estimates, forecasts, or projections (collectively, the "Projections") of Taxes and Operating Expenses for such Adjustment Year. Not less than twenty (20) days prior to each Adjustment Date, Landlord shall deliver to Tenant a written statement setting forth the Projections of Operating Expenses and Taxes for the Adjustment Year in which such Adjustment Date occurs and providing a calculation of the increase in installments of Monthly Base Rent to become effective as of said Adjustment Date; provided, however, that the failure of Landlord to provide any such statement shall not relieve Tenant from its obligation to continue to pay Adjusted Monthly Base Rent at the rate then in effect under this Lease, and if and when Tenant receives such

statement from Landlord, Tenant shall pay any increases in Monthly Base Rent reflected thereby effective retroactively to the most recently preceding Adjustment Date.

#### 22.04 READJUSTMENTS

Subject to Section 22.08, on or about April 1st following the end of each Adjustment Year, or at such later time as Landlord shall be able to determine the actual amounts of Operating Expenses and Taxes for the Adjustment Year last ended, Landlord shall notify Tenant in writing of such actual amounts, as certified by an authorized officer of Landlord or Landlord's property manager (such notice being hereinafter referred to as "Landlord's Year-End Catch-up Notice"). Tenant acknowledges that actual Taxes for an Adjustment Year may not be determined until after actual Taxes for such Adjustment Year are determined, based on the fact that Taxes are determined on a cash basis hereunder, and may not be known prior to the end of a given Adjustment Year, at such time when all installments of Taxes which are payable during such year become known. Accordingly, Tenant acknowledges that Landlord may deliver its final annual reports relative to the actual Operating Expenses and relative to the actual Taxes for an Adjustment Year separately. If such actual amounts exceed the Projections for such Adjustment Year, then Tenant shall, within thirty (30) days after the date of such Landlord's Year-End Catch-up Notice, pay to Landlord an amount equal to the excess of the Adjusted Monthly Base Rent payable for the Adjustment Year last ended based upon actual Operating Expenses and Taxes for such year over the total Adjusted Monthly Base Rent paid by Tenant during such Adjustment Year. The obligation to make such payments shall survive the expiration or earlier termination of the Term. If the total Adjusted Monthly Base Rent paid by Tenant during such Adjustment Year exceeds the amount thereof payable for such year based upon actual Operating Expenses and Taxes for such Adjustment Year, then, at Tenant's option, Landlord shall, within thirty (30) days after the date of such Landlord's Year-End Catch-up Notice, pay to Tenant an amount equal to the excess, or Landlord shall credit such excess to installments of Adjusted Monthly Base Rent payable after the date of Landlord's Year-End Catch-up Notice until such excess has been exhausted, or if this Lease shall expire prior to full application of such excess, Landlord shall, within thirty (30) days after the Expiration Date, pay to Tenant the balance thereof not theretofore applied against Rent. No interest or penalties shall accrue on any amounts which Landlord is obligated to credit or pay to Tenant by reason of this Section 22.04. Tenant's obligation to pay Adjusted Monthly Base Rent for any calendar year, and Landlord's obligation to refund to Tenant any overpayment on account thereof, shall survive the expiration or sooner termination of this Lease; provided, however, that Tenant shall only be obligated to make any such payments with respect to Operating Expenses hereunder which are billed to Tenant within two (2) years after the date that the Landlord's Year-End Catch-up Notice relating to such Operating Expenses was required to be delivered to Tenant as provided herein.

#### 22.05 PARTIAL OCCUPANCY

For purposes of determining adjustments to installments of Monthly Base Rent for any Adjustment Year in which less than ninety-five percent (95%) of the rentable area of the Complex is occupied by tenants, the variable components of Operating Expenses (but specifically excluding Taxes and non-variable components of Operating Expenses) for such Adjustment Year shall be increased to the amount that would have been payable had there been at least 95% occupancy in the Complex during such Adjustment Year. In addition, Landlord shall have the right, from time to time, to equitably allocate to Tenant (in an amount in excess of Tenant's Proportionate Share thereof) those specific items of Operating Expenses described under Clause (15) of the first grammatical paragraph of Subsection 22.01.D above if, and to the extent that, such items (i) are not generally recoverable from all tenants of the Complex as part of Operating Expenses under such other tenants' lease agreements, and (ii) relate to those portions of the Restroom Work located within the Premises, or any portion or portions thereof.

**22.06 BOOKS AND RECORDS**

Landlord shall maintain books and records in the Chicago, Illinois area showing Operating Expenses and Taxes for the Complex in accordance with generally accepted accounting principles. The books and records shall be available to Tenant for inspection upon prior reasonable notice. In the event Tenant elects to inspect such books and records, such inspection shall be conducted by: (i) Tenant; (ii) an independent nationally recognized accountant firm designated by Tenant; (iii) another public accounting firm reasonably acceptable to Landlord; (iv) if it is then customary for real estate services firms to provide such auditing services on behalf of tenants at Comparable Buildings, such representative of Tenant may be a real estate services firm with one or more certified public accountants on staff (other than a real estate services firm which, as its primary business, performs audits of the operating expenses of commercial buildings), to the extent familiar with the accounting practices of Comparable Buildings; or (v) Tenant's current auditing firm, The Robert Thomas Group (or any successor thereto by merger, acquisition, consolidation, or like combination) (each, a "Representative"); provided, except for The Robert Thomas Group (or any successor thereto by merger, acquisition, consolidation, or like combination), in no event shall such Representative be compensated by Tenant on a contingency fee basis. In the event that (i) Tenant notifies Landlord in writing of Tenant's intent to conduct such an inspection within one hundred eighty (180) days after Landlord gives Tenant Landlord's Year-End Catch-up Notice, (ii) such inspection is completed, and the results thereof are submitted to Landlord, within two hundred forty (240) days after Landlord gives Tenant Landlord's Year-End Catch-up Notice, (iii) such inspection is conducted by a Representative, and (iv) such inspection discloses that, for the Adjustment Year covered by such Landlord's Year-End Catch-up Notice, Tenant was overbilled and overpaid its share of Operating Expenses and Taxes by more than four percent (4%) in the aggregate, then Landlord shall reimburse Tenant for Tenant's actual, reasonable, out-of-pocket expenses incurred for such inspection within thirty (30) days following Landlord's receipt of a detailed written invoice therefor.

**22.07 NO DECREASES IN MONTHLY BASE RENT**

Notwithstanding anything to the contrary contained in this Lease, Monthly Base Rent shall not be adjusted or decreased below the amount set forth in Subsection 1.01.H.

**22.08 CONTROLLABLE OPERATING EXPENSE CAP**

Notwithstanding anything to the contrary contained in this Article 22, but subject in all events to Section 22.05 hereof, Landlord hereby agrees that, for purposes of computing Per Square Foot Operating Expenses with respect to the Premises for each Adjustment Year hereunder, increases in Controllable Operating Expenses for any such Adjustment Year during the initial Term hereof only (and specifically excluding any Renewal Term) shall not exceed four percent (4%) of Controllable Operating Expenses used in determining Per Square Foot Operating Expenses with respect to the Premises for the preceding Adjustment Year during the initial Term (the "Controllable Operating Expense Cap"), subject to the following provisions:

A. The Controllable Operating Expense Cap shall be applied on an average, cumulative basis such that, if Controllable Operating Expenses either decrease or increase by less than the foregoing Controllable Operating Expense Cap amount in any such Adjustment Year or Adjustment Years, Landlord may apply the difference between Controllable Operating Expenses and the Controllable Operating Expense Cap for such Adjustment Year or Adjustment Years to increase the Controllable Operating Expense Cap in another Adjustment Year or Adjustment Years, so long as Controllable Operating Expenses do not exceed the foregoing Controllable Operating Expense Cap on an average, cumulative basis during the initial Term. The Controllable Operating Expense Cap shall be initially established based upon the Controllable Operating Expenses attributable to the 2016 calendar year.

**25. NOTICES**

All notices required or permitted to be given under this Lease shall be given in writing by any of the following: (i) delivered personally, (ii) deposited in the United States Mail, postage prepaid and properly addressed, certified mail or customary air express service, return receipt requested, (iii) sent via nationally-recognized commercial overnight delivery service, (iv) by electronic mail (PDF format), or (v) facsimile delivery (so long as, in the case of electronic mail and facsimile notices, a copy thereof is concurrently sent by one of the other methods set forth herein as hereinafter provided), in each case at the following addresses (or at such other address as Landlord or Tenant, as the case may be, shall designate by written notice to the other party hereto):

**(1) To Landlord:**

FCA Fund Chicago II, LLC  
c/o FCA Partners, LLC  
Attn: Asset Manager  
201 South Tryon Street, Suite 900  
Charlotte, NC 28202

With a copy to:

FCA Fund Chicago, II, LLC  
c/o FCA Partners, LLC  
Attn: Property Manager  
U.S. Cellular Plaza  
8420 West Bryn Mawr Avenue, Suite 190  
Chicago, IL 60631

And a copy to:

Moore & VanAllen, PLLC  
Attn: Jeffrey W. Glenney  
100 North Tryon Street, Suite 4700  
Charlotte, NC 28202-4003

**(2) To Tenant:**

USCC Services, LLC  
8410 West Bryn Mawr Avenue  
Chicago, IL 60631  
Attn: Corporate Real Estate Department

With a copy to:

Elizabeth K. McCloy, Esq.  
Sidley Austin LLP  
One South Dearborn  
Chicago, IL 60603

Notices shall be considered to have been given upon the earlier to occur of actual receipt or upon delivery (if delivered by hand), or one (1) business day after depositing with a nationally recognized overnight

B. For purposes of this Section 22.08, "Controllable Operating Expenses" shall mean all Operating Expenses, except that Landlord may exclude therefrom from time to time, in Landlord's sole discretion, utilities, insurance, unionized labor, snow removal, trash removal, and such other costs as Landlord determines, in its commercially reasonable discretion and in a manner consistent with Comparable Buildings, are beyond Landlord's control.

### 23. REAL ESTATE BROKERS

Tenant represents that, except for Colliers Bennett & Kahnweiler LLC d/b/a Colliers International ("Colliers"), Tenant has not dealt with any real estate broker, salesperson, or finder in connection with this Lease, and no such person initiated or participated in the negotiation of this Lease, or showed the Premises to Tenant. Tenant agrees to indemnify and hold harmless the Landlord Parties, and each of them, from and against any and all liabilities and claims for commissions and fees arising out of a breach of the foregoing representation (including specifically, and without limitation, any claims made by Newmark Grubb Knight Frank in connection with this Lease). Landlord shall be responsible for the payment of all commissions to Colliers based upon separate agreement(s) with Colliers. Landlord represents that, except for Colliers, Landlord has not dealt with any real estate broker, salesperson, or finder in connection with this Lease, and no such person initiated or participated in the negotiation of this Lease, or showed the Premises to Tenant. Landlord agrees to indemnify and hold harmless Tenant and the Tenant Parties, and each of them, from and against any and all liabilities and claims for commissions and fees arising out of a breach of the foregoing representation. The terms and provisions of this Article 23 shall survive the expiration or earlier termination of this Lease.

### 24. SUBORDINATION AND ATTORNMENT

Landlord may hereafter encumber the Complex, or any interest therein, with mortgages, may enter into one or more ground leases of the land, may sell and lease back the land, or any part of the land, and may encumber the leasehold estate under such sale and leaseback arrangement with one or more mortgages (any such mortgage on the Complex, or any part thereof, or on any such leasehold estate, is herein called a "Mortgage", and the holder of any such Mortgage is herein called a "Mortgagee", and any such lease of the land is herein called a "Ground Lease", and the lessor under any such lease is herein called the "Ground Lessor"). Landlord agrees to obtain from any future Mortgagee or any Ground Lessor, from time to time, a subordination, non-disturbance and attornment agreement ("SNDA") which shall be reasonably acceptable to Tenant and such Mortgagee or Ground Lessor, as the case may be, which Tenant shall, no later than ten (10) business days following request therefor by Landlord, execute and return to Landlord, provided that no such instrument shall be effective or binding on Tenant unless and until the same shall be executed and delivered to Tenant by such Mortgagee or Ground Lessor, as the case may be. If Landlord fails to obtain such SNDA from any future Mortgagee or Ground Lessor, then Landlord shall not be in default hereunder; provided, however, that in such case, this Lease shall not be subordinate to the subject Mortgage or Ground Lease, as the case may be. Notwithstanding anything to the contrary contained herein, any such Mortgagee or Ground Lessor may subordinate its Mortgage or Ground Lease, as the case may be, to this Lease by sending Tenant notice in writing subordinating such Mortgage or Ground Lease to this Lease, and Tenant agrees to execute and deliver to such Mortgagee or Ground Lessor such further instruments consenting to or confirming the subordination of such Mortgage or Ground Lease to this Lease, which instruments shall be in form and substance reasonably satisfactory to Tenant, within ten (10) business days after notice to Tenant of such request. Landlord hereby represents to Tenant that the Complex is not subject to a Mortgage or a Ground Lease as of the Date of this Lease.

courier, or three (3) business days after posting in the United States (certified or registered) mail, or on the same day if delivered by electronic mail (PDF format) or facsimile delivery (unless such day is not a business day, in which event the subject notice shall be considered to have been given on the next succeeding business day). Any notice given by electronic mail or facsimile delivery shall also be mailed to the recipient by U.S. mail.

## 26. MISCELLANEOUS

### 26.01 LATE CHARGES

All delinquent Rent shall bear interest at the maximum rate permitted by Law or eight (8%) per cent per annum, whichever is less, from the date due until paid.

### 26.02 ENTIRE AGREEMENT

This Lease and the Exhibits attached hereto contain the entire agreement between Landlord and Tenant concerning the Premises and there are no other agreements, either oral or written.

### 26.03 NO OPTION

The execution of this Lease by Tenant and delivery of same to Landlord does not constitute a reservation of or option for the Premises or an agreement to enter into a lease and this Lease shall become effective only if and when Landlord executes and delivers same to Tenant: provided, however, the execution and delivery by Tenant of this Lease to Landlord shall constitute an irrevocable offer by Tenant to lease the Premises on the terms and conditions herein contained, which offer may not be withdrawn or revoked for fifteen (15) business days after such execution and delivery.

### 26.04 ACCORD AND SATISFACTION

No payment by Tenant or receipt by Landlord or a lesser amount than any installment or payment of Rent due shall be deemed to be other than on account of the amount due, and no endorsement or statement on any check or any letter accompanying any check or payment of Rent shall be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or payment of Rent or pursue any other remedies available to Landlord. No receipt of money by Landlord from Tenant at termination of this Lease or Tenant's right of possession of the Premises shall reinstate, continue or extend the Term.

### 26.05 LANDLORD'S OBLIGATIONS ON SALE OF COMPLEX

A. The term "Landlord" as used in this Lease means only the owner of Landlord's interest in the Complex from time to time. In the event of any assignment, conveyance or sale, once or successively, of Landlord's interest in the Complex and assignment of this Lease by Landlord, and provided that such successor Landlord has expressly assumed in writing (a copy of which assumption shall be delivered to Tenant within thirty (30) days thereafter) all obligations of Landlord arising after such assignment of this Lease to such party (which, by virtue of becoming the successor landlord hereunder, each such successor shall be automatically deemed to have so assumed such obligations of "Landlord" hereunder), then the Landlord making such assignment, conveyance or sale shall be and hereby is entirely freed and relieved of all covenants and obligations of Landlord hereunder accruing after such assignment, conveyance or sale. In such event, Tenant agrees to look solely to such assignee, grantee or purchaser, with respect thereto (provided that Tenant shall remain entitled to all set-off, rental abatement or self-help rights expressly set forth in this Lease and otherwise accruing prior to such

assignment, conveyance or sale, subject however, in any event, to the terms of Article 24 hereof). The holder of a Mortgage shall not be deemed such an assignee, grantee or purchaser under this Section 26.05 unless and until the foreclosure of the Mortgage or the conveyance or transfer of Landlord's interest under this Lease in lieu of foreclosure (or by virtue of the Mortgagee becoming a "mortgagee in possession"), and then subject to the provisions of Section 24 hereof and any applicable SNDA then in full force and effect. This Lease shall not be affected by any such assignment, conveyance or sale, and, so long as the terms of this Section 26.05 have been complied with, and subject to the terms of Section 24 and any SNDA executed by Tenant, Tenant agrees to attorn to such assignee, grantee or purchaser.

B. Without limitation of the foregoing, in the event that (i) Landlord hereafter sells, transfers, or conveys the Complex to a third party purchaser ("TPP") who is not affiliated with Landlord or Ohio PERS ("OPERS"), or there is hereafter a change in the controlling interest of Landlord such that Landlord is no longer controlled by OPERS, (ii) such sale, transfer, or conveyance, or such change in control, as the case may be, occurs prior to the full disbursement or application of the TI Allowance or the HVAC Diffuser Allowance, or substantial completion of the Landlord Premises Work or the Landlord Non-Premises Work, as the case may be, and (iii) such TPP, or the new person or entity in control of Landlord, as the case may be, does not have a financial condition reasonably adequate to ensure disbursement or application of the then-remaining TI Allowance or HVAC Diffuser Allowance, or payment of the costs of substantial completion of the Landlord Premises Work or the Landlord Non-Premises Work, as the case may be (as reasonably determined by the parties acting in good faith and based upon the then-current and available financial statements of such TPP), then, as a condition of and to such sale, transfer, and conveyance to such TPP, or such change in the controlling interest of Landlord, as the case may be, Landlord shall either (1) establish and fund (or cause such TPP or new controlling person or entity, as the case may be, to establish and fund), either through a licensed title company, an escrow holding company, or such party's lender, as the case may be, an escrow account sufficient in amount to ensure disbursement or application of the then-remaining TI Allowance or HVAC Diffuser Allowance, or payment of the costs of substantial completion of any then-remaining Landlord Premises Work or Landlord Non-Premises Work, as the case may be (and such escrow account shall provide for periodic disbursement of such escrowed funds for purposes of funding the then-remaining TI Allowance or HVAC Diffuser Allowance, or paying for completion of such then-remaining Landlord Premises Work or Landlord Non-Premises Work, as the case may be), or (2) provide (or cause such TPP or new controlling person or entity, as the case may be, to provide), a letter of credit in an amount sufficient to ensure disbursement or application of the then-remaining TI Allowance or HVAC Diffuser Allowance, or payment of the costs of substantial completion of any then-remaining Landlord Premises Work or Landlord Non-Premises Work, as the case may be (which letter of credit shall only be drawn upon in the event that Landlord, or such TPP or new controlling person or entity, as the case may be, fails to so disburse or apply the then-remaining TI Allowance or HVAC Diffuser Allowance, or fails to substantially complete such then-remaining Landlord Premises Work or Landlord Non-Premises Work, as the case may be, and such failure continues beyond any applicable notice and cure period set forth in the Lease).

C. In the event that Landlord elects to market the Complex, or any portion thereof, for sale on a Non-Portfolio Basis (as hereinafter defined) at any time during the Term hereof, or any Renewal Term, Landlord will provide Tenant with written notice of Landlord's intent to so market the Complex for sale and Tenant may in such event, and at Tenant's sole election, participate in the bidding process for such transaction at the same time and in the same manner as other third party prospects therefor. For the purposes hereof, "Non-Portfolio Basis" shall mean that the Complex, or any portion thereof, is offered for sale on its own and not in combination with any other buildings or projects that Landlord or its affiliates may now or hereafter own. Notwithstanding anything herein to the contrary, Landlord shall have and hereby reserves the right to not sell or to cease marketing for sale the Complex, or any portion thereof, at any time during the sale process.

**26.06 BINDING EFFECT**

This Lease shall be binding upon and inure to the benefit of Landlord and Tenant and their respective heirs, legal representatives, and permitted assigns.

**26.07 FORCE MAJEURE EVENTS**

Without limiting or being limited by any of the provisions of this Lease, if Landlord or Tenant fails to perform timely any of the terms, covenants or conditions of this Lease on Landlord's or Tenant's part to be performed (other than any financial obligation or obligation to pay any amounts due hereunder, including, without limitation, Tenant's obligation to pay Rent in full as and when due hereunder, and excluding further Tenant's obligation to surrender the Premises upon the expiration or earlier termination of this Lease or Tenant's right to possession hereunder), and such failure is due in whole or in part to any strike, lockout, labor trouble, civil disorder, riot, insurrection, act of terrorism, war, accident, fire or other casualty, adverse weather conditions, act of God, governmental inaction, restrictive governmental law or regulation, inability to procure materials, electricity, gas or other fuel or water or other utilities at the Complex after reasonable effort to do so, act or event caused directly or indirectly by the other party's default or the negligence or willful misconduct of the other party or any of the other party's employees, agents, licensees, invitees or contractors or any cause beyond the reasonable control of such party who has failed to so perform (each, a "Force Majeure Event"), then such party shall not be deemed in default under this Lease as a result of such failure; provided, however, that the foregoing in no event shall relieve or affect Tenant's obligation to pay Rent in full as and when due under this Lease, nor relieve Tenant from its obligation to surrender the Premises on the expiration or termination of this Lease or termination of Tenant's right to possession of the Premises, nor extend the Commencement Date.

**26.08 CAPTIONS**

The Article and Section captions in this Lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such Articles and Sections.

**26.09 APPLICABLE LAW**

This Lease shall be governed by and construed in accordance with the laws of the State of Illinois.

**26.10 TIME**

Time is of the essence of this Lease and the performance of all obligations hereunder.

**26.11 LANDLORD'S RIGHT TO PERFORM TENANT'S DUTIES**

If Tenant fails timely to perform any of its duties under this Lease, Landlord shall have the right (but not the obligation), after the expiration of any applicable notice and cure period elsewhere under this Lease expressly granted to Tenant for the performance of such duty, to perform such duty on behalf and at the expense of Tenant upon reasonable (but in no event more than five (5) days) further prior written notice to Tenant, and all actual, reasonable, out-of-pocket sums expended or expenses incurred by Landlord in performing such duty shall be deemed to be additional Rent under this Lease and shall be due and payable upon demand by Landlord; provided, however, Landlord agrees not to undertake the foregoing right to perform Tenant's obligations hereunder if, and only to the extent that, the Tenant obligations at issue (i) occur solely within or in connection with the 8410 Building only (and specifically excluding the 8420 Building or the 8430 Building), (ii) do not materially or adversely affect the structure

or structural components, roof, base Building systems or equipment, or the exterior appearance of the 8410 Building, (iii) do not materially or adversely affect the premises, the use thereof, or access thereto of any other tenant or occupant of the Complex, (iv) do not materially or adversely affect the Common Areas of the Complex, and (v) do not materially or adversely affect the value, class, aesthetics, or appearance of the 8410 Building, or otherwise cause the 8410 Building to be placed in a condition inconsistent with the Complex or other Comparable Buildings.

#### 26.12 WAIVER

No waiver by the parties hereto of any default or breach of any term, condition or covenant of this Lease shall be deemed to be a waiver of any subsequent default or breach of the same or any other term condition or covenant contained herein.

#### 26.13 OFAC AND ANTI-MONEY LAUNDERING COMPLIANCE CERTIFICATIONS

A. Tenant hereby represents, certifies, and warrants to Landlord as follows: (i) Tenant is not named by, and is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by, any Executive Order, including without limitation Executive Order 13224, or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person", or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule or regulation that is enacted, enforced, or administered by the Office of Foreign Assets Control; (ii) Tenant is not engaged in this transaction, directly or indirectly, for or on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity, or nation; and (iii) none of the proceeds used to pay Rent have been or will be derived from a "specified unlawful activity" as defined in, and Tenant is not otherwise in violation of, the Money Laundering Control Act of 1986, as amended, or any other applicable laws regarding money laundering activities. Furthermore, Tenant agrees to immediately notify Landlord if Tenant was, is, or in the future becomes a "senior foreign political figure", or an immediate family member or close associate of a "senior foreign political figure", within the meaning of Section 312 of the USA PATRIOT Act of 2001. Notwithstanding anything in this Lease to the contrary, Tenant acknowledges and agrees that this Lease is a continuing transaction and that the foregoing representations, certifications, and warranties are ongoing and shall be and remain true and in full force and effect on the Date of this Lease and throughout the Term of this Lease (and any extension thereof) and that any breach thereof shall be an Event of Default giving rise to Landlord's remedies, including but not limited to forcible eviction, and Tenant hereby agrees to defend, indemnify, and hold harmless Landlord and the Landlord Parties from and against any and all claims, damages, losses, risks, liabilities, fines, penalties, forfeitures, and expenses (including, without limitation, costs and attorneys' fees) arising from or related to any breach of the foregoing representations, certification, and warranties.

B. Landlord hereby represents, certifies, and warrants to Tenant as follows: (i) Landlord is not named by, and is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by, any Executive Order, including without limitation Executive Order 13224, or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person", or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule or regulation that is enacted, enforced, or administered by the Office of Foreign Assets Control; (ii) Landlord is not engaged in this transaction, directly or indirectly, for or on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity, or nation; and (iii) Landlord is not otherwise in violation of, the Money Laundering Control Act of 1986, as amended, or any other applicable laws regarding money laundering activities. Furthermore, Landlord agrees to immediately notify Tenant if Landlord was, is, or in the future becomes a "senior foreign political figure", or an immediate family member or close associate of a "senior foreign political figure", within the meaning of Section 312 of the USA PATRIOT Act of 2001. Notwithstanding anything in this Lease to the contrary,

Landlord acknowledges and agrees that this Lease is a continuing transaction and that the foregoing representations, certifications, and warranties are ongoing and shall be and remain true and in full force and effect on the Date of this Lease and throughout the Term of this Lease (and any extension thereof) and that any breach thereof shall be an Landlord Default giving rise to Tenant's remedies, and Landlord hereby agrees to defend, indemnify, and hold harmless Tenant and the Tenant Parties from and against any and all claims, damages, losses, risks, liabilities, fines, penalties, forfeitures, and expenses (including, without limitation, costs and attorneys' fees) arising from or related to any breach of the foregoing representations, certification, and warranties.

## 27. PARKING

### 27.01 PARKING RULES

Subject to the terms and provisions of Article 18 hereof, Tenant agrees for itself and for its subtenants, employees, agents, and invitees to comply with the Parking Rules and Regulations attached as Exhibit C hereto, and with all reasonable modifications and additions thereto which Landlord may from time to time make (the "Parking Rules").

### 27.02 RESERVED PARKING SPACES

A. Landlord agrees to enter into a Parking License Agreement (as defined in Exhibit C) with up to seventy (70) employees of Tenant (as designated by Tenant to Landlord) (hereinafter the "Reserved Parking Spaces"), whereby Landlord shall grant to each such employee a license to park one (1) motor vehicle in the Reserved Parking Areas (as defined in Exhibit C) for a license period commencing on the Commencement Date and expiring on the Expiration Date of the Term. The location of the Reserved Parking Spaces shall be as more specifically shown and depicted on Exhibit S attached hereto and made a part hereof. Tenant shall have the right upon written notice to Landlord from time to time to substitute a new Parking License Agreement for a different employee of Tenant; provided, however, that such number of employees, and such number of Reserved Parking Spaces, does not exceed seventy (70) at any time. Notwithstanding anything to the contrary in this Section 27.02, upon not less than sixty (60) days' prior written notice to Landlord from time to time, Tenant may elect to reduce the number of parking permits and Reserved Parking Spaces that Tenant uses under this Section 27.02 (provided, in such event, Tenant's election shall be final and binding and Landlord shall have no further obligation to provide such surrendered parking permits or surrendered Reserved Parking Spaces to Tenant at any time in the future, except to the extent that any such Reserved Parking Spaces so surrendered by Tenant hereunder thereafter become available for leasing by third parties, in which case Tenant shall, upon written request to Landlord, have the option to lease any such surrendered Reserved Parking Spaces upon the terms set forth herein, it being understood and agreed, however, that Landlord has no obligation to hold any such surrendered Reserved Parking Spaces "in reserve" for the benefit of Tenant and that Landlord shall be permitted to lease any such surrendered Reserved Parking Spaces to other tenants and occupants of the Complex from time to time). In the event that Tenant leases any ROFO Space pursuant to Article 30 hereof, any ROFR Space pursuant to Article 33 hereof, or any other space is added to the Premises from and after the Commencement Date, then, upon not less than sixty (60) days' prior written notice to Landlord, Tenant shall be entitled to an exclusive additional parking permit for each additional eight thousand (8,000) rentable square feet of space so leased by Tenant hereunder.

B. The aforesaid Reserved Parking Spaces shall be provided at no additional cost or expense to Tenant, but shall be and remain subject to all of the other terms and conditions hereof and of Landlord's standard Parking License Agreement, a copy of which shall be furnished to Tenant upon request, as well as the Parking Rules.

C. Landlord shall install appropriate signage at such Reserved Parking Spaces; provided, (i) the initial "reserved" signage for such Reserved Parking Spaces shall be installed by Landlord, at Tenant's sole cost and expense, (ii) such "reserved" signage shall be maintained and repaired by Landlord, at Tenant's sole cost and expense, and (iii) any subsequent changes, modifications, updates, or replacements of such "reserved" signage as may be requested by Tenant from time to time shall be performed by Landlord, at Tenant's sole cost and expense.

#### 27.03 TENANT VISITOR PARKING SPACES

A. In addition to the Reserved Parking Spaces, Landlord shall provide Tenant with thirty (30) reserved, designated visitor spaces for Tenant's exclusive use (the "Tenant Visitor Parking Spaces"). The location of the Tenant Visitor Parking Spaces shall be as more specifically shown and depicted on Exhibit S attached hereto.

B. The aforesaid Tenant Visitor Parking Spaces shall be provided at no additional cost or expense to Tenant, but shall be and remain subject to all of the other terms and conditions hereof, as well as the Parking Rules.

C. Landlord shall install appropriate signage at such Tenant Visitor Parking Spaces; provided, (i) the initial "reserved" signage for such Tenant Visitor Parking Spaces shall be installed by Landlord, at Tenant's sole cost and expense, (ii) such "reserved" signage shall be maintained and repaired by Landlord, at Tenant's sole cost and expense, and (iii) any subsequent changes, modifications, updates, or replacements of such "reserved" signage as may be requested by Tenant from time to time shall be performed by Landlord, at Tenant's sole cost and expense.

#### 27.04 GENERAL PARKING PROVISIONS

In addition to the Reserved Parking Spaces described in Section 27.02 hereof, together with the Tenant Visitor Parking Spaces described in Section 27.03 hereof, but subject to Landlord's rights pursuant to the last sentence of this Section 27.04, Tenant shall be entitled to use up to Tenant's Proportionate Share of the total number of unreserved surface parking spaces in the parking facilities located on the Complex (which proportionate share allocation shall include the above-described Reserved Parking Spaces and Tenant Visitor Parking Spaces). All parking spaces provided to Tenant hereunder (other than the above described Reserved Parking Spaces and Tenant Visitor Parking Spaces) shall be unreserved and are to be used by Tenant, and its employees, agents, customers, and invitees, in common with the other tenants of the Complex, and their respective employees, agents, customers, and invitees, and subject in all events to the Parking Rules. Landlord shall have the right to relocate all or any portion of the parking spaces provided to Tenant hereunder (including, without limitation, the above described Reserved Parking Spaces and/or Tenant Visitor Parking Spaces) to such other parking areas serving the Building(s) from time to time upon reasonable prior written notice to Tenant, provided, however, that with respect to the Reserved Parking Spaces and/or the Tenant Visitor Parking Spaces, (i) such relocation shall only occur in connection with a change, modification, reconstruction, or reconfiguration of the parking areas or the Complex, (ii) the relocation of all or any portion of the Reserved Parking Spaces shall be to other covered parking spaces, and (iii) such relocated parking spaces shall otherwise be mutually and reasonably acceptable to Landlord and Tenant.

**28. TERMINATION OPTION**

**28.04 CONDITIONS TO EXERCISE**

### 31. ROOF RIGHTS

#### 31.01 DEFINITION

For purposes of this Lease, "Tenant Roof Space" shall mean the flat space on the roof of the 8410 Building which is currently being utilized by Tenant as of the Date of this Lease, which Tenant Roof Space is more specifically shown on Exhibit E attached hereto and made a part hereof.

#### 31.02 TENANT ROOF SPACE

Subject to all applicable Laws, Landlord hereby leases to Tenant the Tenant Roof Space and agrees that all references in this Lease to "Premises", except as otherwise set forth herein, shall include the Tenant Roof Space. Tenant shall have the right to use the Tenant Roof Space solely for the purpose of the construction, installation, operation, and maintenance of cellular antennas and related equipment, together with all necessary lines, conduits, and sleeving (collectively, and together with any substitution or replacement thereof, the "Antenna"). The Antenna shall be for the exclusive use of the Tenant and its employees. A detailed written description of the Antenna and their related equipment installed (or to be installed) is attached hereto as Exhibit F. Landlord acknowledges that Tenant shall have the right to substitute a new Antenna during the Term, subject to and in accordance with the terms and provisions of this Lease, including, without limitation, this Article 31.

#### 31.03 CONDITION OF TENANT ROOF SPACE

Tenant hereby acknowledges that Landlord is leasing the Tenant Roof Space to Tenant in its "as-is", "where-is" condition, without any representation, credit, or allowance from Landlord with respect to the condition or improvement thereof.

**31.04 TERM**

Tenant shall have the right to use the Tenant Roof Space commencing on the Date of this Lease and expiring on the Expiration Date of the initial Term of this Lease, unless earlier terminated as provided in this Lease, and subject to renewal as is provided in Article 29 of this Lease.

**31.05 RENT**

Notwithstanding anything contained in this Lease to the contrary, no Monthly Base Rent or Adjusted Monthly Base Rent shall be paid or payable by Tenant for the Tenant Roof Space and the rentable area of the Premises for purposes of determining Tenant's Proportionate Share for Adjusted Monthly Base Rent shall not be deemed to include the square footage of the Tenant Roof Space.

**31.06 INSTALLATION**

The installation of the Antenna will be made by Tenant, at its sole cost and expense, and shall be performed in accordance with the provisions of Article 10 of the Lease, specifically including, without limitation, the right of Landlord to approve Tenant's plans and specifications and the right of Landlord to monitor such installations. The design of the Antenna shall be compatible with the design requirements of the 8410 Building. Tenant shall not place any load upon the roof of the 8410 Building which will exceed the load per square foot which the roof was designed to carry. Landlord shall provide Tenant with all such information as Tenant may require to distribute any load properly. Any such load distribution shall be performed by Tenant at its cost and expense. Installation shall be performed so as to cause no structural damage to the 8410 Building, including, without limitation, the roof of the 8410 Building. Any damage caused to the 8410 Building, or any part thereof, which results from the installation, operation, maintenance, repair, replacement, or removal of the Antenna shall be repaired or replaced promptly by Tenant, at its sole expense. Notwithstanding anything to the contrary in this Article 31, Landlord acknowledges that Tenant has installed, and shall be permitted to retain, the Antenna in place as of the Date of this Lease.

**31.07 COMPLIANCE WITH LAWS; INTERFERENCE**

Tenant agrees that the installation, operation, maintenance, and removal of Antenna shall be at Tenant's sole cost, liability and expense and shall be in compliance with all applicable Laws. Tenant agrees to obtain all necessary federal, state, and local licenses and permits necessary to install, operate, and maintain the Antenna. Tenant represents and warrants to Landlord that the Antenna will not cause or create any interference with the operation or use by Landlord or by any occupant of the Building of other transmitting and receiving devices, antennae, computers, telephones, televisions, radios, and stereo equipment existing as of the Date of this Lease. In the event of a breach of this representation and warranty, Tenant shall take whatever steps are necessary, including the relocation of the Tenant Roof Space (subject to Landlord's reasonable approval) in order to eliminate such interference; failing which Tenant shall immediately terminate its operation of and remove the Antenna. Tenant shall exercise its rights hereunder at its cost and expense and in a manner that will not unreasonably interfere with the conduct or operation of any business conducted within the Building by Landlord or any tenant or other occupant. It shall also be Tenant's sole responsibility to protect its own equipment from any and all induced wave energies, including lightning, and induced energies from other radiated energies taking place or that may hereafter take place from the Tenant Roof Space or elsewhere. Landlord shall make a good faith effort to include language substantially similar to that contained in the second through fourth sentences of this Section 31.07 in any future agreement with any tenant or other occupant of the Complex for the location of any antenna, dish, or other transmitting or receiving device on the roof of the Complex.

**31.08 RELOCATION**

Should a change of location of the Tenant Roof Space be required by any governmental body or authority, such change shall be performed by Tenant at its sole cost and expense. The location shall be subject to Tenant's reasonable approval, upon at least thirty (30) days' prior written notice before the date of the relocation. Such relocation shall be performed in a manner so as to minimize any interference with Tenant's use of the Antenna, and Landlord shall pay all of Tenant's direct out-of-pocket documented expenses incurred in connection therewith.

**31.09 ACCESS**

Tenant shall have access to the Tenant Roof Space, which shall be arranged through Landlord's security personnel at the Building, for the purpose of installation, maintenance, repair, operation and removal of the Antenna provided that, in each instance, reasonable prior written notice is given to Landlord and an employee of Landlord is present at no charge to Tenant. Any such written notice from Tenant to Landlord shall specify the nature of the activity to be performed or conducted by Tenant. Landlord shall have the right from time to time to reasonably delay Tenant's entrance to the roof of the Building or to establish the reasonable terms and conditions upon which the Tenant shall have the right to enter the roof of the Building to conduct activities thereon as contemplated by this Article 31.

**31.10 INDEMNIFICATION; INSURANCE**

Except to the extent caused by the negligence or willful misconduct of the Landlord Parties, Tenant agrees to indemnify, defend, and hold harmless the Landlord Parties and each of them from all claims, liabilities, damages, and expenses (including reasonable attorneys' fees and expenses) asserted against or incurred by any of said Landlord Parties and arising from or by reason of the installation, maintenance, operation, or removal of the Antenna. Tenant agrees that its general public liability insurance shall extend to and cover liabilities arising out of the use and/or operation of the Tenant Roof Space and the Antenna. Upon the expiration or termination of this Lease and/or Landlord's termination of Tenant's right to possession of the Premises, Tenant, at its sole expense, shall remove the Antenna and repair and restore any damage to the Building, the Tenant Roof Space, and the roof caused by such removal.

**31.11 LANDLORD'S OBLIGATIONS**

Nothing contained herein shall abrogate Landlord's responsibility for maintenance and repair of the entire roof of the Building, including the Tenant Roof Space, pursuant to and in accordance with the terms and provisions of this Lease, provided, however, Landlord shall not be required to make repairs (i) necessitated by the installation, operation, maintenance or repair of the Antenna, or (ii) due to the negligence or willful misconduct of Tenant or any Tenant Parties. Tenant, at its cost, shall be responsible for the performance of any repairs necessitated under Clause (i) or (ii) above; provided that, at Landlord's option, such repairs may be performed by Landlord, and Tenant shall reimburse to Landlord, upon demand, the reasonable, actual costs thereof. Landlord agrees that any new installations of equipment on the roof by Landlord or other tenants will not cause or create any unreasonable interference with the operation or use by Tenant of the Antenna, except as required by Law in which case Landlord shall use reasonable efforts, without incurring any additional costs, to minimize such interference. Landlord shall not be liable or responsible because of the interruption or suspension of electrical service to the Antenna unless such interruption or suspension is the direct result of the negligence or willful misconduct of the Landlord Parties.

**31.12 ROOF MAINTENANCE**

In the event Landlord deems roof repairs necessary and/or requires access which requires the temporary removal of the Antenna or relocation of the Tenant Roof Space, or which may result in an interruption of Tenant's telecommunications services, Landlord after using reasonable efforts, without incurring any additional costs, to minimize such requirements, shall give Tenant at least fifteen (15) days' written notice (except in cases of an emergency in which event no prior written notice shall be required) prior to commencing such contemplated work in order to allow Tenant to make other arrangements for such services. The cost of the removal, reinstallation or alternate service arrangements shall be the Tenant's sole responsibility, cost and expense.

**31.13 MISCELLANEOUS**

Landlord hereby acknowledges and agrees as follows:

(a) Tenant's rights hereunder in no way violate or contravene any rules or regulations contained in this Lease or promulgated by Landlord pursuant thereto;

(b) notwithstanding the provisions of Clause (19) of Article 18 of this Lease, Tenant, its employees, agents and invitees are permitted to enter upon the roof of the Building as provided in Section 31.09 above, for the uses and purposes herein described;

(c) notwithstanding the provisions of Clause (23) of Article 18 of this Lease, Tenant is permitted to install, operate and maintain the Antenna upon the roof of the Building for the uses and purposes herein described; and

(d) notwithstanding the provisions of Section 15.04 of this Lease, Tenant shall have the right, but not the obligation to rebuild, repair and restore the Antenna if all or any part thereof is damaged by fire or other casualty, provided that if Tenant does not rebuild, repair or restore the Antenna, Tenant shall promptly remove the Antenna from the Tenant Roof Space. If Tenant does not remove the Antenna as set forth in the immediately preceding sentence within thirty (30) days, Landlord may remove the same and restore the Tenant Roof Space and Tenant shall pay the cost of such removal and restoration to Landlord upon demand.

**32. GOVERNMENTAL INCENTIVES**

During the Term, Landlord shall reasonably cooperate with Tenant, at no cost or expense to Landlord, in preserving any existing governmental incentives or in pursuing any new governmental incentives in connection with this Lease and/or Tenant's occupancy of the Premises hereunder.

**33. RIGHT OF FIRST REFUSAL**

**35.01 TENANT SIGNAGE**

A. Subject to the terms and provisions of this Article 35, so long as Tenant is then leasing not less than five (5) full floors of rentable office space in the Complex, and provided further that no Event of Default exists under this Lease, Tenant shall have the right and license during the Term to install, place, and maintain, at Tenant's sole cost and expense: (i) roofline signage and entryway signage reflecting Tenant's name and/or corporate logo on the exterior of the 8410 Building (collectively, the "**8410 Building Exterior Signage**"); and (ii) prominent signage on any existing or future multi-tenant monument sign to be installed or maintained at the Complex from time to time for the display of Tenant's name and/or corporate logo (the "**Monument Signage**"). Subject to the foregoing, Tenant shall have the right and license during the Term to install, place, and maintain, at Tenant's sole cost and expense: (a) signage reflecting Tenant's name and/or corporate logo on the wall of the ground floor elevator lobby area of the 8410 Building; (b) signage reflecting Tenant's name and/or corporate logo behind the ground floor lobby desk of the 8410 Building; (c) signage reflecting Tenant's name and/or corporate logo on the wall of the elevator lobby areas located on those floors of the 8410 Building on which the Premises are located; and (d) signage reflecting Tenant's name and/or corporate logo adjacent to each entrance to the Premises (collectively, the "**8410 Interior Building Signage**"). In furtherance of the foregoing, it is hereby acknowledged and agreed that (1) Tenant's lobby décor and signage presentation along the lower portion of the northwest wall of the 8410 Building's main lobby area, (2) one (1) Tenant identification sign along the upper portion of the northeast wall of the 8410 Building's main lobby area showing the "U.S. Cellular" corporate logo, and (3) one (1) flat panel monitor (not to exceed sixty inches (60") in any event) located along the lower portion of the northeast wall of the 8410 Building's main lobby area (collectively, the "**8410 Tenant Lobby Signage**") existing and in place as of the Date of this Lease may be maintained by Tenant during the Term hereof and shall be included in the definition of "**8410 Interior Building Signage**" for purposes hereof. The term of such license shall commence upon the Commencement Date and shall continue until the expiration or earlier termination of this Lease or Tenant's right to possession hereunder. The 8410 Building Exterior Signage, the Monument Signage, and the 8410 Interior Building Signage are sometimes referred to hereinafter, collectively, as the "**8410 Tenant Building Signage**".

B. Subject to the terms and provisions of this Article 35, provided that no Event of Default then exists under this Lease, Tenant shall have the right and license during the Term to install, place, and maintain, at Tenant's sole cost and expense, exterior roofline signage reflecting Tenant's name and/or

corporate logo on the "north face" exterior of the 8420 Building (the "**8420 Building North Exterior Signage**"). In addition, but subject to the foregoing, Tenant shall have the right and license during the Term to install, place, and maintain, at Tenant's sole cost and expense: (a) signage reflecting Tenant's name and/or corporate logo on the wall of the elevator lobby areas located on those floors of the 8420 Building on which the Premises are located; and (b) signage reflecting Tenant's name and/or corporate logo adjacent to each entrance to the Premises (collectively, the "**8420 Interior Building Signage**"). The term of such license shall commence upon the Date of this Lease and shall continue until the expiration or earlier termination of this Lease or Tenant's right to possession hereunder. The 8420 Building North Exterior Signage, the 8420 Interior Building Signage, and, if applicable, the 8420 Building East Exterior Signage (as hereinafter defined) are sometimes referred to hereinafter, collectively, as the "**8420 Tenant Building Signage**". If Tenant is not provided with the 8420 Building East Exterior Signage (as hereinafter defined) as provided under Section 35.C below, or if Landlord elects to recapture the 8420 Building North Exterior Signage as provided under Section 35.C below, (i) Tenant's right to maintain the 8420 Building North Exterior Signage (or the 8420 Building East Exterior Signage, as the case may be, if Landlord has theretofore recaptured the 8420 Building North Exterior Signage as provided hereunder) shall be subject to Tenant then leasing not less than three (3) full floors of rentable office space (and then occupying not less than 50,000 rentable square feet of rentable office space) in the 8420 Building, and (ii) if at any time Tenant is then leasing less than three (3) full floors of rentable office space (or is then occupying less than 50,000 rentable square feet of rentable office space) in the 8420 Building, Landlord shall have the sole right and option to recapture the 8420 Building North Exterior Signage (or the 8420 Building East Exterior Signage, as the case may be, if Landlord has theretofore recaptured the 8420 Building North Exterior Signage as provided hereunder) and Landlord may thereafter lease such north face building top signage (or east face building top signage, as the case may be) to another tenant or third party on such terms and conditions as Landlord shall deem appropriate.

C. Subject to the terms and provisions of this Article 35, provided that (a) no Event of Default then exists under this Lease, and (b) the Intercall Exterior Signage Rights (as hereinafter defined) have been terminated, Tenant shall have the right and license during the Term to install, place, and maintain, at Tenant's sole cost and expense and in addition to the 8420 Building North Exterior Signage, exterior roofline or other Building signage reflecting Tenant's name and/or corporate logo on the "east face" exterior of the 8420 Building (the "**8420 Building East Exterior Signage**"). The term of such license shall commence upon the date on which Tenant is entitled to and elects to add such 8420 Building East Exterior Signage hereunder and shall continue until the expiration or earlier termination of this Lease or Tenant's right to possession hereunder. If Tenant is provided with the 8420 Building East Exterior Signage as aforesaid (i) Tenant's right to maintain both the 8420 Building North Exterior Signage and the 8420 Building East Exterior Signage shall be subject to Tenant then leasing not less than five (5) full floors of rentable office space (and then occupying not less than four (4) full floors of rentable office space) in the 8420 Building, and (ii) if at any time Tenant is then leasing less than five (5) full floors of rentable office space (or is then occupying less than four (4) full floors of rentable office space) in the 8420 Building, Landlord shall have the right and option, to be exercised in Landlord's sole and absolute discretion, to recapture the 8420 Building North Exterior Signage and Landlord may thereafter lease such north face building top signage to another tenant or third party on such terms and conditions as Landlord shall deem appropriate.

D. It is specifically acknowledged, understood, and agreed that Intercall, Inc. ("**Intercall**"), an existing tenant of the 8420 Building, has the right to install exterior roofline signage on the "east face" of the 8420 Building (the "**Intercall Exterior Signage Rights**"). Landlord hereby agrees that Landlord shall engage in good faith negotiations with Intercall regarding a prospective termination of the Intercall Exterior Signage Rights; provided, however, that (i) any costs, fees, concessions, or other consideration paid to Intercall or incurred by Landlord for such termination shall be the sole responsibility of Tenant (provided that Tenant shall have the opportunity to first approve any such costs, fees, or other

consideration prior to such termination), and (ii) in no event shall Landlord be deemed to be in default under this Lease or otherwise by virtue of any failure or refusal of Intercall to agree to any such termination of the Intercall Exterior Signage Rights hereunder. If the Intercall Exterior Signage Rights are so terminated as contemplated hereunder, Landlord will in such event grant Tenant the right to erect the 8420 Building East Exterior Signage in place of Intercall's signage (and it is specifically acknowledged, understood, and agreed that the 8420 Building East Exterior Signage, and Tenant's rights with respect thereto, are specifically subject to and conditioned upon such termination of the Intercall Exterior Signage Rights hereunder). So long as Tenant has the right to maintain, and is so maintaining, both the 8420 Building North Exterior Signage and the 8420 Building East Exterior Signage as and to the extent provided hereunder, Landlord shall not grant additional building top signage on the 8420 Building to any other tenants or third parties.

E. In addition to the Tenant Building Signage, but subject to the terms and provisions of this Article 35, and provided further that no Event of Default exists under this Lease, in the event that Tenant hereafter elects to lease ROFO Space, ROFR Space, or any other additional space in the 8420 Building or the 8430 Building, as the case may be, Tenant shall be entitled in such instance to: (a) signage reflecting Tenant's name and/or corporate logo on the wall of the elevator lobby areas located on those floors of the 8420 Building or the 8430 Building, as the case may be, on which such ROFO Space, ROFR Space, or other additional space, as the case may be, are located; and (b) signage reflecting Tenant's name and/or corporate logo adjacent to each entrance to such ROFO Space, ROFR Space, or other additional space, as the case may be (collectively, the "Additional 8420/8430 Tenant Signage"). Any and all such Additional 8420/8430 Tenant Signage shall, in addition to the other terms, provisions, and requirements set forth herein, be at Tenant's sole cost and expense and consistent with building standards in effect from time to time with respect to the 8420 Building or the 8430 Building, as the case may be.

#### 35.02 CONDITIONS OF TENANT SIGNAGE

A. All 8410 Tenant Building Signage, 8420 Tenant Building Signage, and Additional 8420/8430 Tenant Signage hereunder shall be for the sole and limited purpose of displaying Tenant's corporate branding materials from time to time, shall be installed and maintained in a manner reasonably acceptable to Landlord, and shall be installed and maintained in a manner consistent at all times with the quality and appearance of the Complex. In addition, all 8410 Tenant Building Signage, 8420 Tenant Building Signage, and Additional 8420/8430 Tenant Signage shall be subject to and conditioned upon: (i) Landlord's prior written approval with respect to the size, color, design, and specific location of each component thereof, which approval shall not be unreasonably withheld, conditioned, or delayed so long as such 8410 Tenant Building Signage, 8420 Tenant Building Signage, and/or Additional 8420/8430 Tenant Signage, as the case may be, is consistent with Tenant signage in place as of the Date of this Lease; (ii) all applicable Laws applicable to such 8410 Tenant Building Signage, 8420 Tenant Building Signage, and/or Additional 8420/8430 Tenant Signage, as the case may be (including, specifically and without limitation, any City of Chicago approvals required in connection with the 8420 Building North Exterior Signage and/or the 8420 Building East Exterior Signage, as the case may be); and (iii) Tenant obtaining all requisite governmental permits and approvals required in connection with such 8410 Tenant Building Signage, 8420 Tenant Building Signage, and/or Additional 8420/8430 Tenant Signage, as the case may be (including, specifically and without limitation, any City of Chicago approvals required in connection with the 8420 Building North Exterior Signage and/or the 8420 Building East Exterior Signage, as the case may be). It is specifically acknowledged, understood, and agreed that Landlord shall have no liability whatsoever for any failure or refusal of the City of Chicago to approve or permit the 8410 Tenant Building Signage, the 8420 Tenant Building Signage, and/or the Additional 8420/8430 Tenant Signage, or any component thereof. Tenant shall provide plans, drawings, and specifications for such 8410 Tenant Building Signage, 8420 Tenant Building Signage, and/or Additional 8420/8430 Tenant Signage, as the case may be, to Landlord prior to the installation thereof, or any subsequent modification,

upgrade, or replacement thereof, which plans, drawings, and specifications shall be subject to Landlord's prior written approval, which approval shall not be unreasonably withheld, conditioned, or delayed. The installation, operation, maintenance, and removal of all such 8410 Tenant Building Signage, 8420 Tenant Building Signage, and/or Additional 8420/8430 Tenant Signage, as the case may be, shall be at Tenant's sole cost, liability, and expense, and all work necessary to install such 8410 Tenant Building Signage, 8420 Tenant Building Signage, and/or Additional 8420/8430 Tenant Signage, as the case may be, shall be performed in accordance with the terms and provisions of this Lease, including, without limitation, Article 10 hereof and this Article 35. Tenant, at its sole cost and expense, agrees to obtain and maintain all necessary governmental licenses and permits to install, operate, and maintain such T8410 Tenant Building Signage, 8420 Tenant Building Signage, and/or Additional 8420/8430 Tenant Signage, as the case may be. In addition, in the event that Landlord hereafter elects to install multi-tenant pylon signage for the Complex (it being acknowledged, understood, and agreed that Landlord shall have no obligation to do so and that such election shall be at Landlord's sole and absolute discretion), Tenant shall, at Tenant's sole cost and expense and subject to the terms and provisions of this Article 35, be provided with prominent tenant identification signage on such multi-tenant pylon signage (and, so long as Tenant is then leasing and occupying the largest amount of rentable office space in the Complex, such tenant identification signage shall be at the top of such multi-tenant pylon signage).

B. To the maximum extent permitted by Law, and except to the extent arising from the negligence or willful misconduct of any Landlord Parties, Tenant agrees to indemnify, defend, and hold harmless Landlord and each Landlord Party from and against any and all claims, liabilities, damages, and expenses (including, without limitation, court costs and reasonable attorneys' fees) asserted against or incurred by any of said parties and arising from, or by reason of, the 8410 Tenant Building Signage, the 8420 Tenant Building Signage, and/or the Additional 8420/8430 Tenant Signage, as the case may be, or any component thereof, or the design, fabrication, installation, maintenance, operation, or removal thereof. Upon the expiration or termination of this Lease, or upon the termination of Tenant's right to possession of the Premises, Tenant, at its sole cost and expense, shall remove the 8410 Tenant Building Signage, the 8420 Tenant Building Signage, and the Additional 8420/8430 Tenant Signage, as the case may be, and shall repair and restore any and all damage caused by such removal and restore the areas affected thereby to substantially the condition existing prior to the installation of such 8410 Tenant Building Signage, 8420 Tenant Building Signage, and Additional 8420/8430 Tenant Signage, as the case may be. Nothing contained herein shall be deemed a grant by Landlord to Tenant of any exclusive right to maintain signs inside, outside, or on the Building or to name the Building (except as expressly provided in this Article 35 or in Article 36 hereof), and Landlord expressly reserves the right to install and maintain signs inside the 8420 Building and the 8430 Building (excluding those portions of the Premises located therein), on the exterior of the 8420 Building (subject to the limitations set forth in this Article 35) and the 8430 Building, and outside the 8420 Building and the 8430 Building (including, without limitation, signage within the main lobby of the 8420 Building and the 8430 Building, subject to the limitations set forth in this Article 35) identifying tenants of such Building, or identifying such Building as "U.S. Cellular Plaza", or such other name or names as Landlord and Tenant may hereafter designate from time to time as provided in Article 36 hereof; provided, any such signage hereafter granted or installed by Landlord or other tenants or users shall not prevent Tenant from installing and maintaining the 8410 Tenant Building Signage, the 8420 Tenant Building Signage, and/or the Additional 8420/8430 Tenant Signage, as the case may be.

C. The 8410 Tenant Building Signage, the 8420 Tenant Building Signage, and/or the Additional 8420/8430 Tenant Signage, as the case may be, and any and all rights thereto (other than the 8410 Interior Building Signage if, and only to the extent that, Tenant is then leasing the entirety of the 8410 Building hereunder), are personal to USCC Services, LLC and any Affiliate and shall not extend to or be for the benefit of, nor may any such signage be utilized by, any assignee, subtenant, or any other party (other than an Affiliate).

**36. NAMING RIGHTS****36.01 NAMING OF COMPLEX****37. LANDLORD PREMISES WORK AND LANDLORD NON-PREMISES WORK****37.01 LANDLORD PREMISES WORK**

A. Subject to the terms and provisions of this Section 37.01, Landlord will perform the following work in and to the Expansion Premises and the Existing Premises, as the case may be:

1. Refurbishment of the existing restrooms on Floors 1 through 11, inclusive, in the 8410 Building, and the existing restrooms located on Floors 4 through 9, inclusive, in the 8420 Building, to a "Class A" standard, plus the addition of one (1) new ADA compliant "unisex" restroom at a "Class A" standard on each floor of the 8410 Building, and on Floors 4 through 9, inclusive, in the 8420 Building (collectively, the "Restroom Work"). The Restroom Work shall be constructed by Landlord with respect to both the Expansion Premises and the Existing Premises in substantial accordance with those certain plans and specifications attached as Exhibit Q hereto and made a part hereof (collectively, the "Restroom Work Plans"), which Restroom Work Plans have heretofore been reviewed and approved by each of Landlord and Tenant (provided, however, that Landlord shall not be required to install any "optional" or "alternate" items expressly referenced on the Restroom Work Plans unless such items are specifically requested in writing by Tenant, in which event (a) Landlord shall install such "optional" or "alternate" items so requested in writing by Tenant as part of the Restroom Work, and (b) Tenant shall pay the difference between the cost of such "optional" or "alternate" items and the cost that would have been incurred for the substitute Building-standard items so reflected on the Restroom

Work Plans, which cost difference may, at Tenant's option, be subject to, and reimbursed from, the TI Allowance). The Restroom Work shall be substantially completed by Landlord (i) with respect to the Expansion Premises, on or before the Turnover Date, subject in all events to Force Majeure Events and Tenant Delay, and (ii) with respect to the Existing Premises, at such time or times, and in accordance with such construction schedules, as shall be mutually and reasonably agreed upon by Landlord and Tenant, subject in all events to Force Majeure Events and Tenant Delay (provided, however, in no event shall Landlord construct, or be required to construct, such Restroom Work on more than two (2) full floors of the Existing Premises simultaneously).

2. Installation of new window film on all exterior windows located within the Existing Premises on Floors 1 through 11, inclusive, of the 8410 Building, and located within the Expansion Premises on Floors 4 through 9, inclusive, of the 8420 Building, to correct the inconsistent coloring and overall appearance of these areas (the "Window Film Work"). The Window Film Work shall be installed by Landlord with respect to both the Expansion Premises and the Existing Premises in substantial accordance with those certain specifications attached as Exhibit P hereto and made a part hereof (collectively, the "Window Film Work Specification"), which Window Film Work Specification has heretofore been reviewed and approved by each of Landlord and Tenant. Such Window Film Work shall be performed by Landlord with respect to both the Expansion Premises and the Existing Premises (i) in substantial accordance with the Window Film Work Specification, (ii) at such time or times, and in accordance with such construction schedules, as shall be mutually and reasonably agreed upon by Landlord and Tenant, subject in all events to Force Majeure Events and Tenant Delay (provided, however, in no event shall Landlord construct, or be required to construct, such Window Film Work on more than two (2) full floors of the Expansion Premises or the Existing Premises, as the case may be, simultaneously), and (iii) in a manner so as to provide for as uniform an exterior window appearance in the 8410 Building and the 8420 Building as is reasonably practicable (including, to the extent reasonably required, the replacement of such first (1st) floor glass windows as may be reasonably necessary with respect thereto).

3. Installation of new building-standard window blinds on all exterior windows located within the Existing Premises on Floors 1 through 11, inclusive, of the 8410 Building, and located within the Expansion Premises on Floors 4 through 9, inclusive, of the 8420 Building (the "Window Blind Work"). The Window Blind Work shall be installed by Landlord with respect to both the Expansion Premises and the Existing Premises in substantial accordance with those certain specifications attached as Exhibit Q hereto and made a part hereof (collectively, the "Window Blind Work Specification"), which Window Blind Work Specification has heretofore been reviewed and approved by each of Landlord and Tenant. If the cost of the window blinds so agreed upon exceed the cost of the building-standard window blinds that would have otherwise been installed by Landlord, Tenant shall be solely responsible for such excess costs (subject to application of the TI Allowance). Such Window Blind Work shall be performed by Landlord with respect to both the Expansion Premises and the Existing Premises (i) in substantial accordance with the Window Blind Work Specification, and (ii) at such time or times, and in accordance with such construction schedules, as shall be mutually and reasonably agreed upon by Landlord and Tenant, subject in all events to Force Majeure Events and Tenant Delay (provided, however, in no event shall Landlord construct, or be required to construct, such Window Blind Work on more than two (2) full floors of the Expansion Premises or the Existing Premises, as the case may be, simultaneously).

4. Modification of the existing building-standard fire and life safety "backbone" on Floors 1 through 11, inclusive, of the 8410 Building, and on Floors 4 through 9, inclusive, of the 8420 Building, to accommodate Tenant-installed devices and equipment (collectively, the

**"Backbone Work"**, and together with the Restroom Work, the Window Film Work, and the Window Blind Work, collectively, the **"Landlord Premises Work"**); provided, however, that Tenant shall be solely responsible for the horizontal distribution of fire and life safety systems within the Existing Premises and the Expansion Premises. The Backbone Work shall be constructed by Landlord with respect to both the Expansion Premises and the Existing Premises in substantial accordance with those certain specifications attached as Exhibit R hereto and made a part hereof (collectively, the **"Backbone Work Specification"**), which Backbone Work Specification has heretofore been reviewed and approved by each of Landlord and Tenant. The Backbone Work shall be substantially completed by Landlord (i) with respect to the Expansion Premises, on or before the Turnover Date, subject in all events to Force Majeure Events and Tenant Delay, and (ii) with respect to the Existing Premises, at such time or times, and in accordance with such construction schedules, as shall be mutually and reasonably agreed upon by Landlord and Tenant, subject in all events to Force Majeure Events and Tenant Delay (provided, however, in no event shall Landlord construct, or be required to construct, such Backbone Work on more than two (2) full floors of the Existing Premises simultaneously).

B. Subject to the terms, provisions, and limitations hereinabove set forth, the Landlord Premises Work shall be constructed by or at the direction of Landlord, at Landlord's sole cost and expense, in a good and workmanlike manner, and in material compliance with all applicable Laws. The construction schedules for that portion of the Restroom Work being performed in the Existing Premises, the Window Film Work, the Window Blind Work, and that portion of the Backbone Work being performed in the Existing Premises, shall be subject to Tenant's reasonable review and approval in each instance, which approval shall not be unreasonably withheld, conditioned, or delayed. As soon as reasonably practicable following the Date of this Lease, Tenant shall prepare (or cause to be prepared), and shall submit to Landlord the proposed construction schedule(s) for that portion of the Restroom Work being performed in the Existing Premises, the Window Film Work, the Window Blind Work, and that portion of the Backbone Work being performed in the Existing Premises. Within ten (10) business days after such construction schedule(s) have been submitted to Landlord, Landlord shall approve or disapprove such items as have been so submitted in writing, and in the case of disapproval, Landlord shall advise Tenant of the specific changes required thereto so that such items will meet Landlord's approval. Tenant shall thereafter revise such items taking into account Landlord's approval requirements, and shall resubmit the revised items to Landlord for review. Within five (5) business days after the revised items have been so submitted to Landlord, Landlord shall approve or disapprove the revised items in writing. This process shall continue until the parties have approved such items in all respects.

C. Upon final approval of the construction schedules for that portion of the Restroom Work being performed in the Existing Premises, the Window Film Work, the Window Blind Work, and that portion of the Backbone Work being performed in the Existing Premises, as the case may be, Landlord shall cause the Landlord Premises Work (or the various components thereof, either together or separately) to be bid among such licensed and insured general contractors as are reasonably acceptable to Landlord; provided, however, that Landlord shall permit Tenant's general contractor for the TI to submit a bid for that portion of the Landlord Premises Work consisting of the Restroom Work (provided, further, that in no event shall Landlord be required to accept such bid from Tenant's general contractor, it being specifically acknowledged, understood, and agreed that all such bids, and any acceptance or rejection thereof, shall be within the sole and absolute discretion of Landlord). Landlord shall select the contractor(s) to be awarded the contract(s) for construction of the Landlord Premises Work (or the various components thereof, either together or separately) hereunder promptly following receipt of the bids submitted to Landlord in connection therewith. Following completion of the Restroom Work, the Window Film Work, the Window Blind Work, and the Backbone Work, as the case may be, Landlord and Tenant shall, at the request of either party hereof, enter into a mutually and reasonably acceptable written

supplement to this Lease confirming the completion of such Restroom Work, Window Film Work, Window Blind Work, and Backbone Work, as the case may be, as provided hereunder.

D. Solely with respect to those portions of the Landlord Premises Work comprising the Backbone Work and the Restroom Work, Landlord shall cause all such Backbone Work and Restroom Work to be compliant with current Laws in effect as of the Date of this Lease. Subject to inclusion of the costs thereof as part of Operating Expenses hereunder (or, in the case of the Restroom Work only, if such inclusion is not permitted, then at Tenant's sole cost and expense with respect to those portions of the Restroom Work located within the Premises, or any portion or portions thereof), (i) Landlord will continue to comply with required upgrades throughout the Term to keep such Backbone Work in compliance with applicable Laws, and (ii) Landlord will also perform any necessary upgrades to the Restroom Work to the extent required by generally-applicable Laws in order to keep such Restroom Work in compliance therewith.

1. Solely in the event that the City of Chicago Building Department stipulates that any "grandfathered" status to any building-standard fire and life safety "backbone" code issues or ADA compliance issues in the Common Areas of the Complex (including common area public access points thereto) will no longer be grandfathered when Tenant secures its building permits for the TI, Landlord shall perform the necessary corrective work at Landlord's sole cost and expense, which requirement will be in addition to Landlord's obligations for the Landlord Premises Work and the Landlord Non-Premises Work hereunder.
2. Except as expressly set forth in Clause (1) of this Subsection 37.01.D, Tenant shall be solely responsible for any code issues or violations resulting from the TI, any Alterations, or any other Tenant work, whether arising in connection with the fire and life safety system distribution within the Existing Premises and/or the Expansion Premises, or otherwise.

#### 37.02 LANDLORD NON-PREMISES WORK

A. Subject to the terms and provisions of this Section 37.02, Landlord will perform the following work in and to the Complex (exclusive of the Existing Premises and the Expansion Premises):

1. Interior renovations in and to the main lobby and Common Area located within the 8420 Building (collectively, the "**8420 Building Improvement Work**") which shall be more specifically described in plans and specifications to be prepared by or at the direction of Landlord for such 8420 Building Improvement Work (the "**8420 Building Improvement Work Specification**"). Tenant shall be provided a reasonable opportunity to review and comment on such 8420 Building Improvement Work Specification (provided, however, that Landlord shall have and retain final approval rights with respect to such 8420 Building Improvement Work Specification and the various components thereof). Such 8420 Building Improvement Work shall thereafter be performed by Landlord in substantial accordance with the 8420 Building Improvement Work Specification and shall be substantially completed by Landlord on or before August 1, 2017, subject in all events to Force Majeure Events and Tenant Delay.

2. Exterior renovations to the landscaping plan for the 8410 Building and the 8420 Building (collectively, the "**Exterior Landscaping Work**") which shall be more specifically described in plans and specifications to be prepared by or at the direction of Landlord for such Exterior Landscaping Work (the "**Exterior Landscaping Work Specification**"). Tenant shall be provided a reasonable opportunity to review and comment on such Exterior Landscaping Work

Specification (provided, however, that Landlord shall have and retain final approval rights with respect to such Exterior Landscaping Work Specification and the various components thereof). Such Exterior Landscaping Work shall thereafter be performed by Landlord in substantial accordance with the Exterior Landscaping Work Specification and shall be substantially completed by Landlord on or before August 1, 2017, subject in all events to Force Majeure Events and Tenant Delay.

3. Installation of window film on connector exterior windows of the 8410 Building and the 8420 Building to correct the inconsistent coloring and overall appearance of these areas (collectively, the "Connector Window Film Work") which shall be more specifically described in plans and specifications to be prepared by or at the direction of Landlord for such Connector Window Film Work (the "Connector Window Film Work Specification"). Tenant shall be provided a reasonable opportunity to review and comment on such Connector Window Film Work Specification (provided, however, that Landlord shall have and retain final approval rights with respect to such Connector Window Film Work Specification and the various components thereof). Such Connector Window Film Work shall thereafter be performed by Landlord in substantial accordance with the Connector Window Film Work Specification and shall be substantially completed by Landlord on or before August 1, 2017, subject in all events to Force Majeure Events and Tenant Delay.

4. Installation of new lighting in the "north to south" garage drive lanes on the main street level of each garage entrance of each Building (collectively, the "Garage Lighting Work") which shall be more specifically described in plans and specifications to be prepared by or at the direction of Landlord for such Garage Lighting Work (the "Garage Lighting Work Specification"). Tenant shall be provided a reasonable opportunity to review and comment on such Garage Lighting Work Specification (provided, however, that Landlord shall have and retain final approval rights with respect to such Garage Lighting Work Specification and the various components thereof). Such Garage Lighting Work shall thereafter be performed by Landlord in substantial accordance with the Garage Lighting Work Specification and shall be substantially completed by Landlord on or before August 1, 2017, subject in all events to Force Majeure Events and Tenant Delay.

5. Install in each of the 8410 Building, the 8420 Building, and the 8430 Building one (1) elevator providing elevator access from the first (1st) floor lobby area to the second (2nd) floor pedestrian walkway area, including ADA-compliant doors, at such location(s) as Landlord shall determine (the "Lobby Elevator Work") which shall be more specifically described in plans and specifications to be prepared by or at the direction of Landlord for such Lobby Elevator Work (the "Lobby Elevator Work Specification"). Tenant shall be provided a reasonable opportunity to review and comment on such Lobby Elevator Work Specification (provided, however, that Landlord shall have and retain final approval rights with respect to such Lobby Elevator Work Specification and the various components thereof). Such Lobby Elevator Work shall thereafter be performed by Landlord in substantial accordance with the Lobby Elevator Work Specification and shall be substantially completed by Landlord on or before August 1, 2017, subject in all events to Force Majeure Events and Tenant Delay.

B. Subject to the terms, provisions, and limitations hereinabove set forth, the Landlord Non-Premises Work shall be constructed by or at the direction of Landlord, at Landlord's sole cost and expense, in a good and workmanlike manner, and in material compliance with all applicable Laws. As soon as reasonably practicable following the full execution and delivery of this Lease by each of Landlord and Tenant, Landlord shall prepare (or cause to be prepared), and shall submit to Tenant (either together or separately), the proposed 8420 Building Improvement Work Specification, Exterior Landscaping Work

Specification, Connector Window Film Work Specification, Garage Lighting Work Specification, and Lobby Elevator Work Specification, together with the proposed construction schedule(s) therefor, for Tenant's review and comment (provided, however, that Landlord shall have and retain final approval rights with respect to such 8420 Building Improvement Work Specification, Exterior Landscaping Work Specification, Connector Window Film Work Specification, Garage Lighting Work Specification, and Lobby Elevator Work Specification, the various components thereof, and the construction schedule(s) applicable thereto). Within ten (10) business days after such items have been submitted to Tenant (either together or separately), Tenant shall provide its comments to such items as have been so submitted in writing. Landlord may (but shall not be required to) thereafter revise such items taking into account, to the extent practicable and acceptable to Landlord, Tenant's comments, and, if applicable, shall resubmit the revised items to Tenant for review and comment. Within five (5) business days after any such revised items have been so submitted to Tenant, Tenant shall provide any remaining comments to the revised items in writing. Notwithstanding anything herein to the contrary, so long as Landlord reviews and responds to any such Tenant comments as aforesaid, in no event shall Landlord's failure to accept or incorporate any such Tenant comments hereunder be deemed a default or breach by Landlord of any of its obligations hereunder with respect to the Landlord Non-Premises Work or any component(s) thereof.

C. Upon finalization of the 8420 Building Improvement Work Specification, the Exterior Landscaping Work Specification, the Connector Window Film Work Specification, the Garage Lighting Work Specification, and the Lobby Elevator Work Specification, together with the construction schedule(s) therefor, as the case may be, Landlord shall cause the Landlord Non-Premises Work (or the various components thereof, either together or separately) to be bid among such licensed and insured general contractors as are reasonably acceptable to Landlord. Landlord shall select the contractor(s) to be awarded the contract(s) for construction of the Landlord Non-Premises Work (or the various components thereof, either together or separately) hereunder promptly following receipt of the bids submitted to Landlord in connection therewith. Following completion of the 8420 Building Improvement Work, the Exterior Landscaping Work, the Connector Window Film Work, the Garage Lighting Work, and the Lobby Elevator Work, as the case may be, Landlord and Tenant shall, at the request of either party hereof, enter into a mutually and reasonably acceptable written supplement to this Lease confirming the completion of such 8420 Building Improvement Work, the Exterior Landscaping Work, the Connector Window Film Work, the Garage Lighting Work, and the Lobby Elevator Work, as the case may be, as provided hereunder.

D. Notwithstanding anything in this Lease to the contrary, and without limitation of Landlord's obligations to complete the Landlord Premises Work and the Landlord Non-Premises Work as and to the extent provided under this Article 37, Landlord shall have and hereby reserves the right, throughout the Term and any Renewal Term, to modify the exterior plan(s) of the 8410 Building, the 8420 Building, and/or the 8430 Building, and/or any other portion or portions of the Complex, or the Common Areas thereof, in order to continue to improve and enhance the Complex, all as reasonably determined by Landlord from time to time.

### 38. FOOD SERVICE

A. Landlord and Tenant acknowledge and agree that (i) there is currently a delicatessen operator, Michael's On Main Cafe, Inc. (the "Existing Operator"), located in Suite 175 on the first (1st) floor of the 8430 Building (the "Deli Space") under a lease agreement scheduled to expire by its terms on September 30, 2016 (the "Existing Deli Lease"), and (ii) Tenant acknowledges that the food service operations currently being provided by such Existing Operator are satisfactory as of the Date of this Lease.

(1) Subject in all events to Force Majeure Events and Tenant Delay, Landlord shall use commercially reasonable efforts to continue to lease the Deli Space (or reasonably comparable alternate space in the Complex) for on-site food service operations at all times hereafter during the Term, either to the Existing Operator or to any other deli operator selected by Landlord and approved by Tenant, which approval shall not be unreasonably withheld, conditioned, or delayed (a "Replacement Deli Operator"), under any subsequent deli lease entered into by Landlord with such Replacement Deli Operator during the Term hereof for the Deli Space (a "Replacement Deli Lease").

(2) Any such Replacement Deli Lease (or renewal of the Existing Deli Lease, as the case may be) shall provide generally for the following: (A) minimum hours of operation of not less than 8:00 a.m. to 2:00 p.m. Monday through Friday, excluding Holidays; (B) the provision for charge (i.e. at such charges for food items and services as may be established by such Replacement Deli Operator from time to time) of general food service (including cold deli, salad bar, and routine on-site food preparation operations) to tenants and occupants of the Complex; (C) food service operations of a quality consistent with the quality standards generally maintained for comparable on-site cafeteria operations (i.e. including cold deli, salad bar, and routine on-site food preparation operations) offered at Comparable Buildings (the "Quality Standard"); and (D) that Landlord shall use commercially reasonable efforts to enforce the foregoing requirements under any Replacement Deli Lease.

(3) In the event that, during the Term hereof, the Existing Deli Lease expires or otherwise terminates, or in the event that the Existing Operator defaults thereunder, which default results in a termination of the Existing Deli Lease or Existing Operator's right to possession thereunder, or in the event that Existing Operator ceases providing food service operations in the Deli Space (or reasonably comparable alternate space in the Complex) for any other reason other than a temporary cessation due to Force Majeure Events, remodeling, retrofitting, or similar event (each, a "Existing Operator Closing"), Landlord shall use commercially reasonable efforts to enter into a Replacement Deli Lease with a Replacement Deli Operator as soon as reasonably practicable hereunder, subject in all events to Force Majeure Events and Tenant Delay. In such event, any such Replacement Deli Operator shall be and remain subject to the prior approval of Tenant, which approval shall not be unreasonably withheld, conditioned, or delayed.

(4) In the event that, during the Term hereof, the Replacement Deli Lease expires or otherwise terminates, or in the event that any Replacement Deli Operator defaults thereunder, which default results in a termination of the Replacement Deli Lease or Replacement Deli Operator's right to possession thereunder, or in the event that Replacement Deli Operator ceases providing food service operations in the Deli Space (or reasonably comparable alternate space in the Complex) for any other reason other than a temporary cessation due to Force Majeure Events, remodeling, retrofitting, or similar event (each, a "New Deli Closing"), Landlord shall use commercially reasonable efforts to enter into a new Replacement Deli Lease with a new Replacement Deli Operator as soon as reasonably practicable hereunder, subject in all events to Force Majeure Events and Tenant Delay. In such event, any such Replacement Deli Operator shall be and remain subject to the prior approval of Tenant, which approval shall not be unreasonably withheld, conditioned, or delayed.

(5) In the event that, during the Term hereof, Tenant believes, in its commercially reasonable discretion, that the Existing Operator or any Replacement Deli Operator, as the case may be, has not satisfied the Quality Standard for thirty (30) consecutive days or more, Tenant shall have the right to serve written notice upon Landlord of such occurrence (each, a "Quality Standard Notice"). Landlord shall thereafter use commercially reasonable efforts to cause the Existing Operator or the Replacement Deli Operator, as the case may be, to satisfy the Quality Standard as soon thereafter as reasonably practicable, subject in all events to Force Majeure Events and Tenant Delay.

B. With respect to that portion of the 8420 Building designated as Suite 100 and comprising approximately 8,364 rentable square feet, Landlord will endeavor to locate a third party tenant acceptable to Landlord to operate a restaurant or food service facility within this space, upon and subject to such terms and conditions as Landlord shall deem appropriate in its sole discretion (provided, however, notwithstanding anything herein to the contrary, in no event shall Landlord's failure to locate (or to hereafter cease seeking) an acceptable restaurant or food service tenant or operator for such space be deemed a default or breach by Landlord of any of its obligations hereunder with respect thereto, and Landlord shall have and retain the right to instead select an office tenant or other user for such space at any time and from time to time).

#### 39. RISER SPACE

Tenant shall be entitled to use, in common with others entitled thereto, the existing riser space located in the 8410 Building, as well as up to Tenant's Proportionate Share of the existing riser space located in the 8420 Building (and up to Tenant's Proportionate Share of the existing riser space located in the 8430 Building to the extent that Tenant hereafter leases space therein) (adjusted proportionately, however, based upon the level of Tenant's occupancy within the 8420 Building or the 8430 Building, as the case may be), subject, however, to the terms and conditions of this Lease and the reasonable rules and regulations for the use thereof as may be prescribed from time to time by Landlord but applied consistently for all tenants of the Complex.

#### 40. AMERICANS WITH DISABILITIES ACT

Landlord and Tenant acknowledge that the Americans With Disabilities Act of 1990 (42 U.S.C. §12101 et seq.) and regulations and guidelines promulgated thereunder, as all of the same may be amended and supplemented from time to time (collectively referred to herein as the "ADA"), establish requirements for business operations, accessibility, and barrier removal, and that such requirements may or may not apply to the Premises and the Complex depending on, among other things: (1) whether Tenant's business is deemed a "public accommodation" or "commercial facility", (2) whether such requirements are "readily achievable", and (3) whether a given alteration affects a primary function area or triggers "path of travel" requirements. The parties hereby agree that: (a) Landlord shall be responsible for ADA Title III compliance in the Common Areas, including the parking garage and any common use conference center and Fitness Center, to the extent required by applicable Law and except as provided below, and Landlord shall perform all work required by applicable Law for such compliance, and (b) Tenant shall be responsible for ADA Title III compliance in the Premises, including the TI and any Alterations, other leasehold improvements, or other work to be performed in the Premises (excluding the Backbone Work, the Restroom Work, and the Lobby Elevator Work) under or in connection with this Lease.

#### 41. DIRECTORY

At all times during the Term, Landlord will list Tenant's name and, if requested by Tenant, the names of Tenant's departments and firm partners, officers, or employees, on the existing building directory located in the lobby of the 8410 Building and the 8420 Building, at no initial cost to Tenant. Tenant will be entitled to that number of line entries as may be requested by Tenant (not exceeding, in the aggregate, Tenant's "pro-rata share" (i.e., determined based on the number of rentable square feet of the Premises divided by the number of rentable square feet of the 8410 Building and the 8420 Building, as the case may be) of total available line entry space with respect to any such directory). Landlord shall thereafter make such subsequent additions and deletions as Tenant requests in and to the initial listings made as of the Commencement Date (subject to the restrictions on the number of lines stated above);

provided, Tenant shall reimburse Landlord for the actual and reasonable costs incurred by Landlord from time to time in making any such additions or deletions as requested by Tenant hereunder.

#### 42. PUBLICITY

All press releases issued or other public communications made at any time hereafter concerning Landlord's and Tenant's execution of this Lease, the duration of the Term, the size of the Premises, the location of the Premises, and the individuals involved in the negotiation and execution of this Lease shall be subject to the prior written approval of Landlord and Tenant, which approval shall not be unreasonably withheld, conditioned, or delayed by either party hereto (provided, however, that either party shall be permitted to make such disclosures as may be required by applicable Laws, including applicable securities and regulatory requirements, as well as a general disclosure of the parties' names, the lease term, the rentable area of the Premises, and the Brokers involved herewith).

#### 43. SUPPLEMENTAL GENERATOR

**[SIGNATURE PAGE TO FOLLOW]**

IN WITNESS WHEREOF, this Lease has been executed as of the Date of this Lease as set forth in Subsection 1.01.D hereof.

**LANDLORD:**

FCA FUND CHICAGO II, LLC, a  
Delaware limited liability company

By: FCA-III, LLC, a Delaware limited  
liability company, its sole member

By: FCA Partners, LLC, a North Carolina  
limited liability company, its manager

By: Edward M. Cherry  
Name: Edward M. Cherry  
Title: Manager

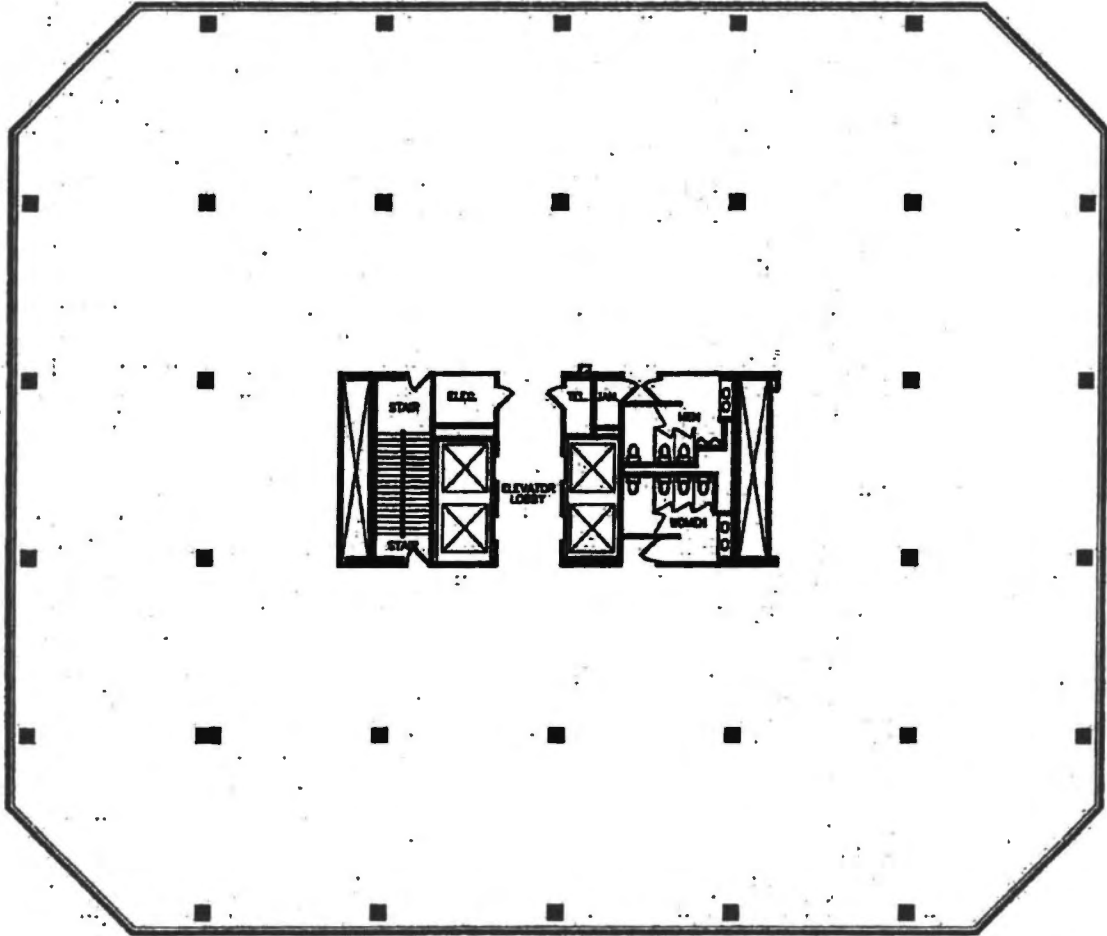
**TENANT:**

USCC SERVICES, LLC, a Delaware  
limited liability company

By: Steven T. Campbell  
Name: Steven T. Campbell  
Title: Vice President and Treasurer

**EXHIBIT A-1**

**PLAN OF EXISTING PREMISES**

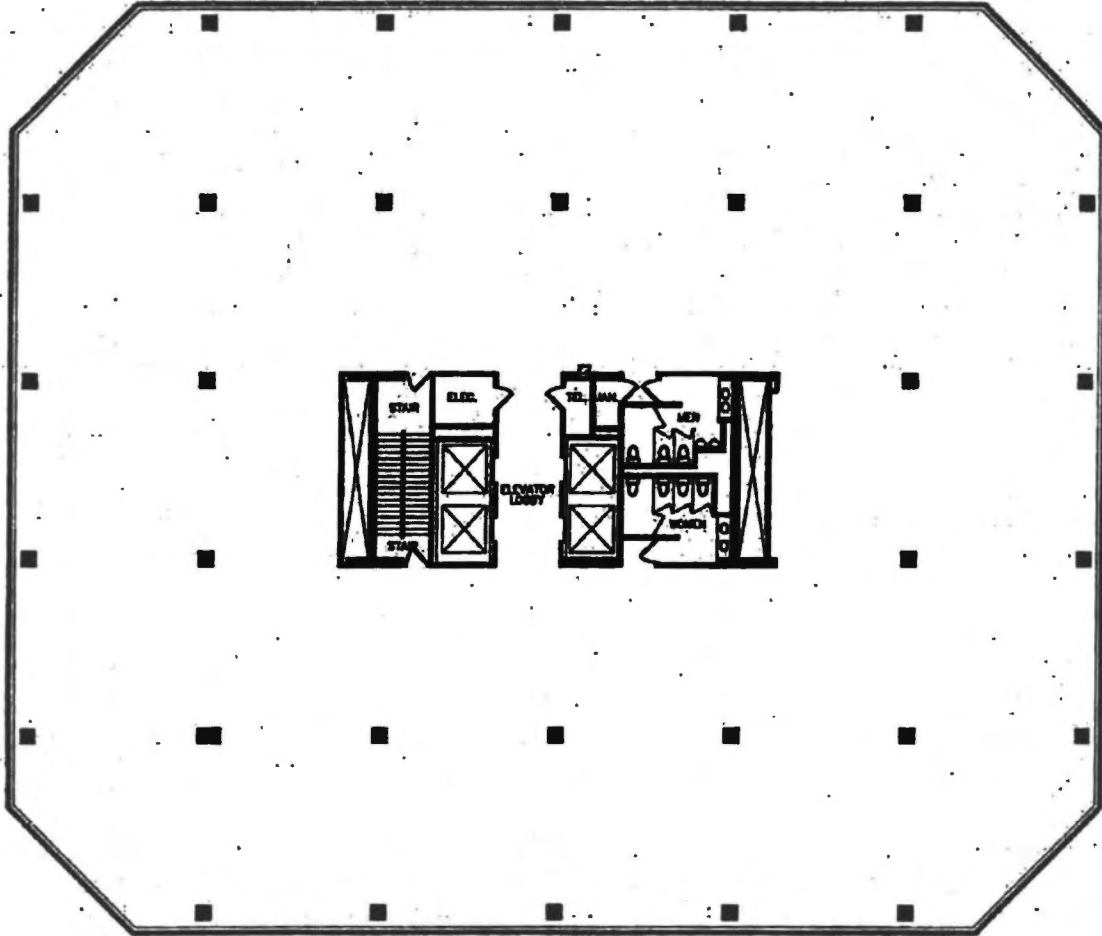


**8410 W. Bryn Mawr  
(Floors 1-11)**

1 <sup>st</sup> Floor	14,022 RSF
2 <sup>nd</sup> Floor	19,897 RSF
3 <sup>rd</sup> Floor	19,897 RSF
4 <sup>th</sup> Floor	19,897 RSF
5 <sup>th</sup> Floor	19,897 RSF
6 <sup>th</sup> Floor	19,832 RSF
7 <sup>th</sup> Floor	19,832 RSF
8 <sup>th</sup> Floor	19,832 RSF
9 <sup>th</sup> Floor	19,774 RSF
10 <sup>th</sup> Floor	19,774 RSF
11 <sup>th</sup> Floor	19,774 RSF
<b>Total</b>	<b>212,428 RSF</b>

**EXHIBIT A-2**

**PLAN OF EXPANSION PREMISES**



**8420 W. Bryn Mawr  
(Floors 4-9)**

<b>4<sup>th</sup> Floor</b>	<b>19,948 RSF</b>
<b>5<sup>th</sup> Floor</b>	<b>19,948 RSF</b>
<b>6<sup>th</sup> Floor</b>	<b>19,883 RSF</b>
<b>7<sup>th</sup> Floor</b>	<b>19,883 RSF</b>
<b>8<sup>th</sup> Floor</b>	<b>19,883 RSF</b>
<b>9<sup>th</sup> Floor</b>	<b>19,824 RSF</b>
<b>Total</b>	<b>119,369 RSF</b>

**EXHIBIT B****WORK LETTER**

This Work Letter to the foregoing Lease (referred to herein for convenience as the "Lease") between FCA Fund Chicago II, LLC, a Delaware limited liability company ("Landlord"), and USCC SERVICES, LLC, a Delaware limited liability company ("Tenant"), relating to the Premises more specifically described therein. All capitalized terms which are not defined herein shall have the same meanings as set forth in the Lease.

**I. TI; HVAC Diffuser Work.**

a. Under the Lease to which this Work Letter is attached, Tenant has agreed to accept the Premises "as is", without any obligation for the performance of improvements or other work by Landlord, and Tenant desires to perform certain improvements thereto, including, without limitation, permanent leasehold improvement work, painting, carpeting, retrofitting, replacement of work stations, erection of additional walls or partitions in the Premises, voice and data cabling and wiring, furniture, fixtures, and equipment to be installed and utilized within the Premises, and such other alterations, additions, or improvements as Tenant desires to be constructed in the Premises, including, at Tenant's option, interconnecting staircases between some or all floors of the Premises (collectively, the "TI"). The TI shall include the installation of individual HVAC zones utilizing slot diffusers along the perimeters of each Expansion Premises floor in the 8420 Building and may also include any demolition, preparation, or other work required in connection therewith, including, without limitation, structural or mechanical work, additional HVAC equipment or sprinkler heads, or modifications to any building mechanical, electrical, plumbing, or other systems and equipment, or relocation of any existing sprinkler heads, either within or outside the Premises, required as a result of the layout, design, or construction of the TI, or in order to extend any mechanical distribution, fire protection, or other systems from existing points of distribution or connection, or in order to obtain building permits for the work to be performed within the Premises. Such TI shall be planned and performed strictly in accordance with the provisions of this Work Letter and at Tenant's sole cost and expense (subject to application of the TI Allowance as hereinafter provided). Tenant shall take all actions necessary to cause Tenant's Planners (as hereinafter defined) to prepare the Approved Plans (as hereinafter defined), and to cause Tenant's Contractors (as hereinafter defined) to obtain permits and other approvals, diligently prosecute the TI to completion, and obtain any inspections and occupancy certificates for Tenant's occupancy of the Premises. Any delays in the foregoing shall not serve to abate or extend the time for the commencement of Rent under the Lease. Tenant shall notify Landlord upon completion of the TI (and record any notice of completion contemplated by Law).

b. In addition to the TI, Tenant shall be required to install individual HVAC zones utilizing slot diffusers along the perimeters of each floor throughout the Premises (collectively, the "HVAC Diffuser Work"). Such HVAC Diffuser Work shall be planned and performed strictly in accordance with the provisions of this Work Letter and at Tenant's sole cost and expense (subject to application of the HVAC Diffuser Allowance as hereinafter provided). Tenant shall take all actions necessary to cause Tenant's Planners to prepare the Approved Plans, and to cause Tenant's Contractors to obtain permits and other approvals, diligently prosecute the HVAC Diffuser Work to completion. Any delays in the foregoing shall not serve to abate or extend the time for the commencement of Rent under the Lease. Tenant shall notify Landlord upon completion of the HVAC Diffuser Work (and record any notice of completion contemplated by Law).

c. Solely with respect to the HVAC Diffuser Work: (i) if, and to the extent that, Tenant fails to so perform or complete the HVAC Diffuser Work within the Existing Premises in accordance with the terms and provisions of this Work Letter and the applicable provisions of the Lease, Landlord's obligation to disburse the HVAC Diffuser Allowance, or any remaining portion thereof, as hereinafter set

forth shall be excused and Tenant shall be deemed to have waived the HVAC Diffuser Allowance, or any remaining portion thereof; and (ii) if, and to the extent that, Tenant fails to so perform or complete the HVAC Diffuser Work within any portion or portions of the Premises in accordance with the terms and provisions of this Work Letter and the applicable provisions of the Lease, Landlord's failure to meet the HVAC Specifications in those portions of the Premises within which the HVAC Diffuser Work has not been so completed shall not be deemed a breach or default by Landlord under the Lease to the extent that such failure is caused by or results from Tenant's failure to so complete the HVAC Diffuser Work therein as provided hereunder.

**II. Planning.** The term "Plans" herein shall refer to the Space Plan and Construction Drawings collectively (as such terms are further defined in Section IX). The term "Approved Plans" shall refer to the Plans as approved by Landlord in writing in accordance with this Section II. It is acknowledged, understood, and agreed, however, that the TI is anticipated to occur in stages and that the following provisions shall be deemed to apply separately to each such stage of the TI, as appropriate.

a. **Tenant's Space Planner, Architect and Engineer.** Tenant shall engage an interior office space planner ("Space Planner"), and a licensed architect ("Architect", who may be the same as the Space Planner), each subject to Landlord's reasonable prior written approval. Tenant shall also engage such licensed engineering firms ("Engineers") as may be required or appropriate in connection with preparing the Plans (e.g. mechanical, electrical, plumbing, structural, HVAC or other), all of whom shall be reasonably approved by Landlord in writing. The term "Tenant's Planners" herein shall refer collectively or individually, as the context requires, to the Space Planner, Architect, or Engineers, as appropriate, engaged by Tenant, and approved or designated by Landlord in writing in accordance with this Work Letter. Tenant has sole responsibility to provide all information concerning its space requirements to Tenant's Planners, to cause Tenant's Planners to prepare the Plans, and to obtain Landlord's final approval thereof (including all revisions thereto). Tenant and Tenant's Planners may review such existing drawings as Landlord may have in its possession relating to the Premises or the Building, but shall not rely thereon (and shall perform independent verifications of all field conditions, dimensions, and other such matters), and Landlord shall have no liability for any errors, omissions, or other deficiencies therein.

b. **Space Plan.**

i. Tenant shall promptly hereafter cause the Space Planner to submit three (3) sets of a Space Plan (as defined in Section IX) to Landlord for approval.

ii. Landlord shall, within ten (10) business days after receipt thereof, either approve said Space Plan, or disapprove the same advising Tenant of the reasons for such disapproval. In the event Landlord disapproves said Space Plan, Tenant shall modify the same, taking into account the reasons given by Landlord for said disapproval, and shall submit three (3) sets of the revised Space Plan to Landlord within seven (7) business days after receipt of Landlord's initial disapproval. In the event Landlord that fails to respond within three (3) business days following Landlord's receipt of a second written request therefor, such failure shall be deemed to mean that Landlord has approved such Space Plan.

iii. The parties shall continue such process in the same time frames until Landlord grants approval.

c. **Construction Drawings and Engineering Report.**

i. Promptly following approval of the Space Plan, Tenant shall cause the Architect to submit to Landlord for approval Construction Drawings (as defined in Section IX), and cause the

Engineers to submit for Landlord's approval a report (the "Engineering Report") from Tenant's mechanical, structural, and electrical Engineers indicating any special heating, cooling, ventilation, electrical, heavy load, or other special or unusual requirements of Tenant, including calculations; provided, however, that the aforementioned Engineering Report will only be required to the extent that such engineering matters are not adequately addressed as part of the Construction Drawings, all as reasonably determined by Landlord and Landlord's engineer or engineering consultant. Tenant shall cause the appropriate Construction Drawings and Engineering Report for the HVAC Diffuser Work to be separately prepared and submitted to Landlord for its review and approval on the terms provided herein.

ii. Landlord shall, within ten (10) business days after receipt thereof, either approve the Construction Drawings and Engineering Report, or disapprove the same advising Tenant of the reasons for disapproval. If Landlord disapproves of the Construction Drawings or Engineering Report, Tenant shall modify and submit revised Construction Drawings, and a revised Engineering Report, taking into account the reasons given by Landlord for disapproval, within seven (7) business days after receipt of Landlord's initial disapproval. In the event that Landlord fails to respond within three (3) business days following Landlord's receipt of a second written request therefor, such failure shall be deemed to mean that Landlord has approved such Construction Drawings and/or Engineering Report, as the case may be.

iii. The parties shall continue such process in the same time frames until Landlord grants approval.

d. Landlord's Approval. Landlord shall not unreasonably withhold, condition, or delay approval of any Space Plan, Construction Drawings, or Engineering Report submitted hereunder if they provide for a customary office layout, with finishes and materials generally conforming to Building-standard finishes and materials currently being used by Landlord at the Building and the Complex, are compatible with the Building's shell and core construction, and if no modifications will be required for the Complex electrical, heating, air-conditioning, ventilation, plumbing, fire protection, life safety, or other systems or equipment, and will not require any structural modifications to the Building, whether required by heavy loads or otherwise, and will not create any potentially dangerous conditions, potentially violate any codes or other governmental requirements, potentially interfere with any other occupant's use of its premises in the 8420 Building, or potentially increase the cost of operating the Complex. Construction Drawings approved by Landlord in writing (including approved revisions) are referred to herein as the "Approved Plans".

e. Governmental Approval of Plans; Project Permits. Tenant shall cause Tenant's Contractors to apply for any building permits, inspections, and occupancy certificates required for or in connection with the TI and the HVAC Diffuser Work. If the Approved Plans must be revised in order to obtain such building permits, inspections, and/or occupancy certificates, Tenant shall promptly notify Landlord, promptly arrange for the Plans to be revised to satisfy such requirements, and shall submit the revised Plans to Landlord for approval as a Change Order under Subsection II.f. Landlord shall have no obligation to apply for any zoning, parking, or sign code amendments, approvals, permits, or variances, or any other governmental approval, permit, or action with respect to the Approved Plans. If any such other matters are required, Tenant shall promptly seek to satisfy such requirements (if Landlord first approves in writing), or shall revise the Plans to eliminate such requirements and submit such revised Plans to Landlord for approval in the manner described above. Delays in substantially completing the TI or the HVAC Diffuser Work as a result of requirements for building permits or other governmental approvals, permits, or actions shall not affect the Commencement Date and commencement of Rent.

f. Changes After Plans Are Approved. If Tenant shall desire, or any governmental body shall require, any changes, alterations, or additions to the Approved Plans, Tenant shall submit a detailed written request or revised Plans (the "Change Order") to Landlord for approval. If reasonable and practicable and generally consistent with the Plans theretofore approved, Landlord shall not unreasonably

withhold, condition, or delay approval. All costs in connection therewith, including, without limitation, construction costs, permit fees, and any additional plans, drawings, and engineering reports or other studies or tests, or revisions of such existing items, shall be included in the Cost of the TI or the Cost of the HVAC Diffuser Work, as the case may be, under Section IV. No delays resulting from any Change Orders or requests therefor shall delay the Commencement Date or commencement of Rent. In the event that the Premises are not constructed in substantial accordance with the Approved Plans, Tenant shall not be permitted to occupy the Premises until the Premises reasonably comply in all respects therewith; in such case, the Rent shall nevertheless commence to accrue and be payable as otherwise provided in the Lease.

### III. Contractors, Bids, and Contracts.

a. Contractors. Tenant shall engage to perform the TI and the HVAC Diffuser Work such contractors, subcontractors, and suppliers ("Tenant's Contractors") as are first approved by Landlord, which approval shall not be unreasonably withheld, conditioned, or delayed so long as such Contractors are licensed, bonded, reputable, and qualified parties capable of performing quality workmanship who have good labor relations and will be able to work in harmony with each other and with Landlord and other occupants of the Complex, and their respective contractors, so as to ensure proper maintenance of good labor relationships, and in compliance with all applicable labor agreements existing between trade unions and the relevant chapter of the Association of General Contractors of America. The Approved Contractors specifically named on Exhibit J attached to the Lease shall be deemed approved for purposes of this Work Letter (but shall be and remain subject to the foregoing requirements). Any substitutions may be made only with Landlord's prior written approval, which approval shall not be unreasonably withheld, conditioned, or delayed, so long as the foregoing requirements are met. Such approval shall either be granted, or granted subject to specified conditions, or denied, as the case may be, within five (5) business days after Landlord receives from Tenant a written request for such substitution, containing a reasonable description of the proposed party's background, finances, references, qualifications, and other such information as Landlord may reasonably request. Landlord may require that Tenant select Tenant's Contractors from a list of such parties for TI involving life safety systems, fire panel work, and Building automation changes or modifications so long as such contractors' "pricing" is reasonably competitive with then-prevailing market prices. All of Tenant's Contractors performing the TI or the HVAC Diffuser Work, or any portion or portions thereof, or any other work in the Premises, the Building, or the Complex, at any time and from time to time, will be required to adhere to the "Responsible Contractor Policy", a copy of which is attached as Exhibit N to the Lease.

b. Contracts and Guaranties. Tenant shall promptly submit to Landlord, prior to entering any contracts for the TI or the HVAC Diffuser Work, an itemized statement of the estimated Cost of the TI or the Cost of the HVAC Diffuser Work, as the case may be. All contracts shall contain commercially reasonable insurance, indemnity, and other provisions consistent herewith. All contracts involving progress payments shall include appropriate retention provisions and payment application requirements consistent with this Work Letter. Each Tenant Contractor shall guarantee that the portion of the TI or the HVAC Diffuser Work, as the case may be, for which it is responsible shall be free from any defects or deficiencies in workmanship and materials for a period of not less than one (1) year from the date of completion thereof. Every such party shall be responsible for the replacement or repair, without additional charge, of all such defects or deficiencies in accordance with its contract within one (1) year after completion of such work or the correction thereof. The correction of such work shall include, without additional charge, all additional expenses and damages in connection with such removal or replacement of all or any part of the TI or the HVAC Diffuser Work, as the case may be, and/or the Complex and/or Common Areas, or work which may be damaged or disturbed thereby. All such warranties or guarantees as to materials or workmanship of or with respect to the TI or the HVAC Diffuser Work, as the case may be, shall be contained in the contract or subcontract which shall be written

such that said warranties or guarantees shall inure to the benefit of both Landlord and Tenant, as their respective interests may appear, and can be directly enforced by either. Tenant covenants to give Landlord any assignment or other assurances necessary to effect such right of direct enforcement. Copies of all contracts and subcontracts shall be furnished to Landlord promptly after the same are executed.

**IV. Cost of the TI and TI Allowance; Costs of the HVAC Diffuser Work and HVAC Diffuser Allowance.**

**a. Cost of the TI; Cost of the HVAC Diffuser Work.**

i. Except for the TI Allowance to be provided by Landlord hereunder, Tenant shall pay all costs (the "Costs of the TI") associated with the TI whatsoever, including without limitation, all actual, documented, out-of-pocket costs paid by Tenant for or related to: (1) the so-called "hard costs" of the TI, including, without limitation, costs of labor, hardware, equipment and materials, and demolition and relocations to accommodate the TI; (2) the so-called "soft costs" of all professional service fees, the Plans and Engineering Report, including, without limitation, all revisions thereto, and engineering reports, or other studies, reports or tests, air balancing or related work in connection therewith and permits and licenses, with respect to the TI and contractors' charges for overhead and fees, and so-called "general conditions" (including rubbish removal, utilities, freight elevators, hoisting, field supervision, building permits, inspection fees, utility connections, and the like); (3) Landlord's costs and fee as described below; (4) telephone systems and voice and data cabling and wiring to be installed and utilized in the Premises; and (5) moving and relocation costs.

ii. Except for the HVAC Diffuser Allowance to be provided by Landlord hereunder, Tenant shall pay all costs (the "Costs of the HVAC Diffuser Work") associated with the HVAC Diffuser Work whatsoever, including without limitation, all actual, documented, out-of-pocket costs paid by Tenant for or related to: (1) the so-called "hard costs" of the HVAC Diffuser Work, including, without limitation, costs of labor, hardware, equipment and materials, and demolition and relocations to accommodate the HVAC Diffuser Work; (2) the so-called "soft costs" of the Plans and Engineering Report, including, without limitation, all revisions thereto, and engineering reports, or other studies, reports or tests, air balancing or related work in connection therewith and permits and licenses, with respect to the HVAC Diffuser Work and contractors' charges for overhead and fees, and so-called "general conditions" (including rubbish removal, utilities, freight elevators, hoisting, field supervision, building permits, inspection fees, utility connections, and the like); and (3) Landlord's costs and fee as described below.

**b. TI Allowance; HVAC Diffuser Allowance.**

i. Commencing on the Date of this Lease, Landlord shall make available to Tenant a construction allowance (the "TI Allowance") in an amount not to exceed Seventeen Million One Hundred Eighty-Six Thousand Six Hundred Ninety-Five and No/100 Dollars (\$17,186,695.00) in the aggregate (calculated by adding (A) the product obtained by multiplying \$50.00 by 212,428, being the rentable area of the Existing Premises, plus (B) the product obtained by multiplying \$55.00 by 119,369, being the rentable area of the Expansion Premises). The TI Allowance shall be applied solely towards Costs of the TI and for no other purpose; provided, however, that (1) Tenant may apply a portion of the TI Allowance not utilized in connection with the TI as aforesaid, not to exceed the amount of Three Hundred Thousand and No/100 Dollars (\$300,000.00) in the aggregate, towards the actual, documented, out-of-pocket costs previously paid by Tenant for restroom and access door upgrades previously performed by Tenant within the Existing Premises, and (2) Tenant may apply an additional portion of the TI Allowance not utilized in connection with the TI as aforesaid, not to exceed the amount of Three Million Four Hundred Thirty-Seven Thousand Three Hundred Thirty-Nine and No/100 Dollars (\$3,437,339.00) (the

"FF&E Allocation"), the actual, documented, out-of-pocket costs paid by Tenant for furniture, fixtures, and equipment to be installed and utilized by Tenant in the Premises.

ii. Commencing on the Date of this Lease, and in addition to the TI Allowance, Landlord shall make available to Tenant an allowance (the "HVAC Diffuser Allowance") in an amount not to exceed One Million Sixty-two Thousand One Hundred Forty and No/100 Dollars (\$1,062,140.00) in the aggregate (calculated by multiplying \$5.00 by 212,428, being the rentable area of the Existing Premises). The HVAC Diffuser Allowance shall be applied solely towards Costs of the HVAC Diffuser Work with respect to that portion of the HVAC Diffuser Work performed within the Existing Premises and for no other purpose

c. Tenant's Cost. Any portion of the Cost of the TI exceeding the TI Allowance, or the Cost of the HVAC Diffuser Work exceeding the HVAC Diffuser Allowance, as the case may be, is referred to herein as "Tenant's Cost". Tenant's Cost shall be paid by Tenant from time to time as and when due, and shall, if not so paid by Tenant, be deemed a default under the Lease, and Tenant's obligations under the Lease to keep the Premises and Project free of liens shall apply to any and all liens arising from any failure to pay Tenant's Cost hereunder.

d. Funding and Disbursement.

i. Landlord shall (y) fund the TI Allowance from time to time from and after the Date of this Lease in monthly progress payment installments, based on the submission of the Draw Documents (as hereinafter defined), subject to withholding ten percent (10%) of each draw as retention (at Landlord's option, but only if Tenant's contract with its general contractor does not provide for comparable retention), on a proportional basis, and (z) fund the HVAC Diffuser Allowance in not more than two (2) installments, based on the submission of the Draw Documents, subject to withholding ten percent (10%) of the initial draw as retention (at Landlord's option, but only if Tenant's contract with its Contractor for the HVAC Diffuser Work does not provide for comparable retention), on a proportional basis, provided, however, in each case, that:

A. Tenant may not make more than one (1) draw in any calendar month;

B. The minimum amount which may be drawn at any one time (except in case of the final draw) is Fifty Thousand Dollars (\$50,000.00);

C. Except for the final draw, the maximum amount of any draw for the Cost of the TI with respect to the TI or the HVAC Diffuser Work, as the case may be, shall not exceed an amount which bears the same ratio to the total TI Allowance or HVAC Diffuser Allowance, as the case may be, as the Cost of the TI with respect to the TI or the HVAC Diffuser Work, as the case may be, paid by Tenant and covered by the Draw Documents submitted by Tenant in connection with the draw request bears to the total Cost of the TI with respect to the TI or the HVAC Diffuser Work, as the case may be); and

D. With each draw request, Tenant shall submit to Landlord the following documents:

(1) A true and correct copy of the application for payment by Tenant's Contractors for the TI or HVAC Diffuser Work, as the case may be, completed to date, including contractor's affidavits and sworn statements evidencing the cost of the TI or HVAC Diffuser Work, as the case may be, performed to date;

(2) Partial or final lien waivers with respect to the TI or HVAC Diffuser Work, as the case may be, performed to date;

(3) Tenant's certification to Landlord that the amounts set forth in all Contractors' sworn statements are owed to Tenant's Contractors for the TI or HVAC Diffuser Work, as the case may be, performed to date;

(4) The total cost of the TI or HVAC Diffuser Work, as the case may be, based on the Approved Plans, or any modifications thereof, as such cost may change from time to time;

(5) With the final draw request, Tenant shall submit to Landlord (i) a certificate from Tenant's Architect stating that the TI (or the HVAC Diffuser Work, as the case may be) has been completed substantially in accordance with the Approved Plans and in accordance with applicable zoning, building, environmental, and other Laws, (ii) final "as built" drawings for the TI or the HVAC Diffuser Work, as the case may be, (iii) a certificate of occupancy or other required governmental approval for the Premises, as and to the extent applicable and generally available from the City of Chicago, (iv) copies of warranties and operating manuals, if any, for materials and equipment installed as part of the TI or the HVAC Diffuser Work, as the case may be, and (v) air balancing reports for the heating, ventilation, and air conditioning system; and

(6) Such additional reasonable and customary documentation as may be required by Landlord.

ii. Subject to the foregoing, Landlord shall fund and disburse draws of the TI Allowance or the HVAC Allowance, as the case may be, within forty-five (45) days after Tenant has submitted all of the Draw Documents required hereunder. Landlord and Tenant shall meet no later than the twenty-fifth (25th) day of each month to agree upon a "pencil draw to facilitate the timely submission, approval, and payment of all draws on a monthly basis.

iii. Subject to the terms, provisions, and limitations hereinabove set forth, funds may be drawn against the TI Allowance and the HVAC Diffuser Allowance, as the case may be, at any time and from time to time prior to, but not after, December 31, 2019 (the "Allowance Application Deadline"), after which any unused portion or portions of the TI Allowance or the HVAC Diffuser Allowance, as the case may be, shall be deemed waived by Tenant and Landlord shall have no further liability therefor.

e. Landlord's Fee; Landlord's Supervision.

i. Landlord will charge Tenant, and Tenant will pay to Landlord, a supervisory fee equal to one percent (1%) of the aggregate "hard costs" of the TI and the HVAC Diffuser Work. Such fee may, at Landlord's option, either be deducted from the TI Allowance or the HVAC Diffuser Allowance, as the case may be, from time to time, or charged to Tenant directly from time to time, in which case such fee and sums shall be deemed additional Rent under, and for purposes of, the Lease.

ii. Landlord will provide reasonable ongoing supervisory services to Tenant in connection with the TI and the HVAC Diffuser Work, including, but not limited to, attending and participating in all construction project management meetings with Tenant's architect and general contractor during the Beneficial Occupancy Period and following finalization and approval of the Approved Plans as herein provided.

V. Performance of the TI and the HVAC Diffuser Work.

a. Conditions to Performing TI and HVAC Diffuser Work. Before commencing any TI or HVAC Diffuser Work, Tenant shall:

i. Obtain Landlord's written approval of Tenant's Plans and the Plans, as described in Section II.

ii. Obtain, provide copies, and post all necessary governmental approvals and permits as described in Subsection II.e.

iii. Deliver to Landlord an itemization of the Costs of the TI and Costs of the HVAC Diffuser Work, as the case may be, or the applicable portion(s) thereof, obtain Landlord's written approval of Tenant's Contractors, and deliver to Landlord copies of the proposed contracts as described in Section III and Section IV.

iv. Provide evidence of insurance to Landlord as described in Section VI.

b. Compliance and Standards. Tenant shall cause the TI and the HVAC Diffuser Work to comply in all respects with the following: (a) the Approved Plans; (b) the property and building code of the City of Chicago and the State of Illinois and all applicable Laws, including the ADA as described in Section XI below, as each may apply according to the rulings of the controlling public official, agent, or other such person; (c) applicable standards of the National Board of Fire Underwriters (or successor organization) and National Electrical Code; (d) applicable manufacturer's specifications; and (e) any reasonable work rules and regulations as Landlord or its agent may have reasonably adopted for the Complex, and the rules and regulations attached to this Lease. Tenant shall use only new, first-class materials in the TI and the HVAC Diffuser Work, except where expressly otherwise shown in the Approved Plans. The TI and the HVAC Diffuser Work shall be performed in a safe, first-class, and workmanlike manner, and shall be in good and usable condition at the date of completion. In case of inconsistency, the requirement with the highest standard protecting or favoring Landlord shall govern.

c. Labor Harmony. All contractors working in the Premises or the Complex, whether in connection with the TI, the HVAC Diffuser Work, any Alterations, or otherwise, must be union trades and must meet Landlord's reasonable contractor insurance requirements. Tenant shall conduct its labor relations and relations with employees so as to avoid strikes, picketing, and boycotts of, on, or about the Premises or the Complex. If any employees strike, or if picket lines or boycotts or other visible activities objectionable to Landlord are established, conducted, or carried out against Tenant, or Tenant's employees, agents, contractors, subcontractors, or suppliers, in or about the Premises or the Complex, Tenant shall immediately close the Premises and remove or cause to be removed all such employees, agents, contractors, subcontractors, and suppliers until the dispute has been settled.

d. Complex Operations, Dirt, Debris, and Noise. Tenant and Tenant's Contractors shall make all efforts and take all steps appropriate to assure that all construction activities do not interfere with the operation of the Complex or with other occupants of the Complex. The TI shall be coordinated under Landlord's direction with the work being done or to be performed, and other activities, for or by other occupants in the Complex so that the TI will not interfere with or delay the completion of any other construction work or other activity in the Complex. Construction equipment and materials are to be kept within the Premises, and delivery and loading of equipment and materials shall be done at such locations and at such time as Landlord shall reasonably direct so as not to burden the construction or operation of the Complex. Tenant's contractors shall comply with any work rules for the Complex and Landlord's requirements respecting the manner of handling materials, equipment, and debris. Demolition in the 8420 Building must be performed after 6:00 p.m. and on weekends, or as otherwise reasonably required by Landlord or the work rules for the Complex. Construction which creates unreasonable noise, odors, or other matters that may bother other occupants may be rescheduled by Landlord at Landlord's reasonable discretion. Delivery of materials, equipment, and removal of debris must be arranged to avoid any inconvenience or annoyance to other occupants. The TI and the HVAC Diffuser Work and all cleaning in the Premises must be controlled to prevent dirt, dust, or other matter from infiltrating into adjacent

occupant, common, or mechanical areas. Tenant and Tenant's Contractors shall take all precautionary steps to minimize dust, dirt, odors, noise, and construction traffic, and to protect their facilities and the facilities of others affected by the TI or the HVAC Diffuser Work and to properly police the same. If and as required by Landlord, the Premises shall be sealed off from other floors or areas of the 8420 Building so as to prevent the disbursement or infiltration of dust, dirt, odors, debris, and noise.

e. Removal of Debris. The Contractors shall be required to remove from the Premises and dispose of, at least once a week and more frequently as Landlord may reasonably direct, all debris and rubbish caused by or resulting from the TI and/or the HVAC Diffuser Work, and shall not place debris in the Complex's waste containers. Upon completion of the TI and the HVAC Diffuser Work, Tenant's Contractors shall remove all surplus materials, debris, and rubbish of whatever kind remaining within the Complex which has been brought in or created by the contractors and subcontractors in the performance of the TI or the HVAC Diffuser Work. If any Contractor shall neglect, refuse, or fail to remove any such debris, rubbish, surplus material, or temporary structures within forty-eight (48) hours after notice to Tenant from Landlord with respect thereto, Landlord may cause the same to be removed by contract or otherwise as Landlord may determine expedient, and charge the cost thereof to Tenant as additional Rent under the Lease.

f. Elevators, Utilities, and Services.

i. Tenant shall, for the duration of the entire construction, fixturing and move-in period with respect to the TI and the HVAC Diffuser Work being performed therein, be allowed to use during Normal Business Hours, at no charge to Tenant, all elevators in the 8410 Building for the purpose of hoisting materials, equipment, and personnel to the Existing Premises. Any use of such elevators in the 8410 Building during times other than Normal Business Hours shall be at Landlord's then-prevailing charges therefor. In addition, and so long as there is no interruption to other tenants of the 8420 Building, Tenant shall, for the duration of the entire construction, fixturing and move-in period with respect to the TI being performed therein, be allowed to use during Normal Business Hours, at no charge to Tenant, one (1) dedicated elevator in the 8420 Building for the purpose of hoisting materials, equipment, and personnel to the Expansion Premises. Any use of such elevators in the 8420 Building during times other than Normal Business Hours shall be at Landlord's then-prevailing charges therefor, except that Tenant shall be permitted to utilize two (2) dedicated elevators in the 8420 Building for such purposes during such times at no additional charge to Tenant.

ii. Landlord shall provide Tenant with dumpster locations, material staging areas within the Existing Premises and/or the Expansion Premises, and restroom facilities in the Expansion Premises during the Beneficial Occupancy Period in connection with the construction of the TI and the HVAC Diffuser Work. Electricity is currently available to the Premises for use by Tenant at Tenant's sole cost and expense.

g. Landlord Rights. Tenant shall permit access to the Premises, and inspection of the TI and the HVAC Diffuser Work, by Landlord and Landlord's architects, engineers, contractors, and other representatives, at all times during the period in which the TI and the HVAC Diffuser Work is being planned, constructed, and installed and promptly following completion of the TI and the HVAC Diffuser Work; provided, however, that Landlord and Landlord's architects, engineers, contractors, and other representatives shall use commercially reasonable efforts to work in harmony with Tenant's Contractors in order to minimize any disruption in the construction of the TI and the HVAC Diffuser Work hereunder. Landlord shall have the right, but not the obligation, to order Tenant or any of Tenant's Contractors who violate the requirements imposed on Tenant or Tenant's Contractors in performing TI or the HVAC Diffuser Work, as the case may be, to cease the TI or the HVAC Diffuser Work, as the case may be, and remove its equipment and employees from the Complex. Landlord shall have the right, but not the obligation, to perform, on behalf of and for the account of Tenant, subject to reimbursement by Tenant,

any work required to cure or complete any TI or HVAC Diffuser Work, as the case may be, which is in violation of this Work Letter, or which pertains to patching of the TI or the HVAC Diffuser Work, as the case may be, or other work in the Complex, or involves work outside of the Premises, or affects the base building core or structure or systems or equipment for the Complex. No such action by Landlord shall delay the commencement of the Lease or the obligation to pay Rent or any other obligations therein set forth.

h. General Requirements. Tenant shall impose on and enforce all applicable terms of this Work Letter against Tenant's Planners and Tenant's Contractors. Landlord may impose reasonable additional requirements from time to time in order to ensure that the TI and the HVAC Diffuser Work, and the construction thereof, does not disturb or interfere with any other occupants of the Complex, or their respective visitors, contractors, or agents, nor interfere with the efficient, safe, and secure operation of the Complex.

VI. Insurance. In addition to any insurance which may be required under the Lease, Tenant shall cause Tenant's Contractors to secure, pay for, and maintain, during the continuance of the TI and/or the HVAC Diffuser Work, insurance in the coverages and amounts, and otherwise in accordance with the terms and provisions, set forth on Exhibit B-1 attached hereto.

VII. Signage; HVAC Balancing; Utility Separation.

a. Tenant's signage rights shall be as set forth under Article 35 of the Lease. In no event shall Landlord have any obligations with respect to Tenant signage in or about the Premises, the Building, or the Complex, except as expressly provided to the contrary in said Article 35 of the Lease.

b. Notwithstanding anything contained herein to the contrary, following completion of the TI and the HVAC Diffuser Work hereunder, Tenant shall cause an independent third party engineer or contractor mutually and reasonably approved by Landlord and Tenant to perform air balancing tests on the Premises and adjust the HVAC system, if necessary, as a result thereof. Landlord shall not be responsible for any disturbance or deficiency created in the air conditioning or other mechanical, electrical, or structural facilities within the Premises, the Building, or the Complex as a result of the TI or the HVAC Diffuser Work, nor shall Landlord be responsible for any additional heat pumps or equipment required as a result of Tenant's design, the TI, or the HVAC Diffuser Work. Tenant shall be solely responsible for correcting any disturbances or deficiencies in the HVAC system arising from and after such initial air balancing tests and adjustments, and for restoring HVAC services to Landlord's reasonable satisfaction, within a reasonable time and at Tenant's sole cost and expense.

c. Tenant shall be solely responsible for any split or separation of any existing shared utilities, utility meters, and/or utility connections, and any split or separation of HVAC boxes, equipment, and/or distribution systems, as may be required in connection with the TI and/or the HVAC Diffuser Work hereunder.

VIII. [Intentionally Omitted]

IX. Certain Definitions.

a. Space Plan. "Space Plan" herein means a floor plan, drawn to scale, showing (i) demising walls, interior walls and other partitions, including type of wall or partition and height, (ii) doors and other openings in such walls or partitions, including type of door and hardware, (iii) any floor or ceiling openings, and any variations to Building-standard floor or ceiling heights, (iv) electrical outlets, and any restrooms, kitchens, computer rooms, file cabinets, file rooms and other special purpose rooms, and any sinks or other plumbing facilities, or other special electrical, HVAC, plumbing or other facilities or equipment, including all special loading, (v) communications system, including location and

dimensions of equipment rooms, and telephone and computer outlet locations, (vi) special cabinet work or other millwork items, (vii) any space planning considerations under the ADA, (viii) finish selections (i.e. color selection of painted areas, and selection of floor and any special wall coverings from Landlord's available Building-standard selections (which selections Tenant may defer and include with the Construction Drawings), and (ix) any other details or features requested by Architect, Engineer or Landlord in order for the Space Plan to serve as a basis for preparing the Construction Drawings.

b. Construction Drawings. "Construction Drawings" herein means fully dimensioned architectural construction drawings and specifications, and any required engineering drawings (including mechanical, electrical, plumbing, structural, air-conditioning, ventilation and heating), and shall include any applicable items described above for the Space Plan, and to the extent applicable: (i) electrical outlet locations, circuits and anticipated usage therefor, (ii) reflected ceiling plan, including lighting, switching, and any special ceiling specifications, (iii) duct locations for heating, ventilating and air-conditioning equipment, (iv) details of all millwork, (v) dimensions of all equipment and cabinets to be built in, (vi) furniture plan showing details of space occupancy, (vii) keying schedule, (viii) lighting arrangement, (ix) location of print machines, equipment in lunch rooms, concentrated file and library loadings and any other equipment or systems (with brand names wherever possible) which require special consideration relative to air-conditioning, ventilation, electrical, plumbing, structural, fire protection, life-fire-safety system, or mechanical systems, (x) special heating, ventilating and air conditioning equipment and requirements, (xi) weight and location of heavy equipment, and anticipated loads for special usage rooms, (xii) demolition plan, (xiii) partition construction plan, (xiv) all requirements under the ADA and other governmental requirements, and (xv) final finish selections, and any other details or features in order for the Construction Drawings to serve as a basis for contracting the TI and the HVAC Diffuser Work, as the case may be.

X. Taxes. Tenant shall pay prior to delinquency all taxes, charges, or other governmental impositions (including without limitation, any real estate taxes or assessments, sales taxes, or value added taxes) to the extent assessed against or levied upon Tenant's fixtures, furnishings, equipment, and personal property located in the Premises and/or the TI under this Work Letter. Whenever possible, Tenant shall cause all such items to be assessed and billed separately from the property of Landlord. In the event that any such items shall be assessed and billed with the property of Landlord, Tenant shall pay its share of such taxes, charges, or other governmental impositions to Landlord within twenty (20) days after Landlord delivers a statement and a copy of the assessment or other documentation showing the amount of such impositions applicable to Tenant.

XI. Disabilities Acts. Subject only to Landlord's obligations as, and to the extent, expressly set forth under Subsection 37.01.D and Article 40 of the Lease, Tenant shall be solely responsible for all matters arising under the ADA and relating to the Premises and/or the TI hereunder. Without limiting the generality of the forgoing, Tenant shall (a) provide complete and accurate information such that the Plans will comply with the ADA, and update such information as needed, and (b) be responsible for any changes in or to the TI and/or Premises resulting from changes in Tenant's employees, business operations, or the ADA.

XII. Miscellaneous.

a. Interpretation. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Lease.

b. Application. This Work Letter shall not apply to any additional space added to the Premises at any time, whether by any options or rights under the Lease or otherwise, or to any portion of the Premises in the event of a renewal or extension of the Term of the Lease, whether by any options or

rights under the Lease or otherwise, unless expressly so provided in the Lease or any amendment or supplement thereto.

c. Lease Provisions and Modification. This Work Letter is intended to supplement and be subject to the provisions of the Lease, including, without limitation, those provisions requiring that any modification or amendment be in writing and signed by authorized representatives of both parties.

d. No Third-Party Beneficiaries. The Lease and this Work Letter are not intended to create any third-party beneficiaries. Without limiting the generality of the foregoing, no Tenant Contractors or Tenant Planners shall have any legal or beneficial interest in the Allowance.

e. Authorized Construction Representatives. Tenant has designated Mary Beth Donovan, Senior Manager - Real Estate Services [Tel. No.: (773) 399-4125; E-Mail: [MaryBeth.Donovan@uscellular.com](mailto:MaryBeth.Donovan@uscellular.com)] ("Tenant's Authorized Representative"), and Landlord has designated Lloyd Berry, CCIM, RPA [Tel. No.: (312) 777-2625; E-Mail: [Lloyd.Berry@colliers.com](mailto:Lloyd.Berry@colliers.com)] ("Landlord's Authorized Representative"), as the sole authorized representatives with respect to the matters set forth in this Work Letter, who, until further written notice from Tenant or Landlord, as the case may be, to the other party hereto, shall have full and exclusive authority and responsibility to act on behalf of their respective parties as required in this Work Letter. Any instructions or approvals delivered to either party by any other individual shall not be binding, unless otherwise expressly agreed to in writing by both Landlord and Tenant.

**EXHIBIT B-1**

**CONTRACTOR INSURANCE REQUIREMENTS**

**US Cellular Plaza  
Insurance Requirements**

	<b>GRADE A</b>	<b>GRADE B</b>	<b>GRADE C</b>
<b>VENDOR CLASSIFICATIONS</b>	<ul style="list-style-type: none"> <li>• Asbestos Removal <sup>(1)</sup></li> <li>• Boiler Repair/Maintenance</li> <li>• Carpentry Outside – 3+ Stories</li> <li>• Chemical Sales &amp; Service</li> <li>• Construction/ Demolition/ Excavation – see General Contractor</li> <li>• Crane Inspection &amp; Repair</li> <li>• Crane Rental Service</li> <li>• Elevator / Escalator</li> <li>• Explosive Delivery</li> <li>• General Contractors (see below for GL requirements)</li> <li>• Lagoon Dredging</li> <li>• Lift Truck</li> <li>• Painting – 3 Stories and Over</li> <li>• Roofing Contractor</li> <li>• Scaffolding Contractor</li> <li>• Waste Disposal – Regulated <sup>(1)</sup></li> <li>• Welding Supply Delivery &amp; Service</li> </ul>	<ul style="list-style-type: none"> <li>• Air Compressor Service</li> <li>• Architects &amp; Engineers <sup>(2)</sup></li> <li>• Carpentry Inside or &lt; 3 stories</li> <li>• Chemical &amp; Water Tank Cleaning &amp; Inspection</li> <li>• Central Station Alarm Monitor</li> <li>• Door Repair</li> <li>• Janitorial Service</li> <li>• Electrical Contractor</li> <li>• Gutter Contractor</li> <li>• HVAC</li> <li>• Insulation Installation</li> <li>• Lighting Repair</li> <li>• Painting – Under 3 stories</li> <li>• Paving/ Concrete Work</li> <li>• Pest Control Services</li> <li>• Plumbing Contractor</li> <li>• Security Guard &amp; Patrol Service</li> <li>• Sheet Metal Work</li> <li>• Tile Flooring Contractor</li> <li>• Waste Hauling &amp; Waste Paper Delivery (unregulated)</li> <li>• Water Pump Repair</li> <li>• Well Pump Inspection</li> <li>• Window Cleaning &gt; 2 stories</li> </ul>	<ul style="list-style-type: none"> <li>• Barricade Construction</li> <li>• Delivery Companies</li> <li>• Lawn Care &amp; Landscaping (use Grade B if available)</li> <li>• Office Equipment Repair</li> <li>• Parking - Snow Removal, Sweeper</li> <li>• Parking Service with/ without Valet</li> <li>• Uniform Service</li> <li>• Vending Machine Contractor</li> <li>• Window Cleaning up to 2 Stories</li> <li>• Pressure Washer</li> <li>• Surveyor <sup>(2)</sup></li> <li>• Telephone Repair (Grade A if outdoor lines)</li> </ul>
<b>REQUIRED INSURANCE COVERAGE</b>			
• General Liability – Including Contractual Liability and Completed Operations	\$1,000,000 Each Occurrence \$2,000,000 Aggregate	\$1,000,000 Each Occurrence \$2,000,000 Aggregate	\$1,000,000 Each Occurrence \$2,000,000 Aggregate
• Automobile Liability – Including Hired and Non-Owned Vehicles	\$2,000,000 Combined Single Limit for Bodily Injury & Property Damage	\$1,000,000 Combined Single Limit for Bodily Injury & Property Damage	\$ 500,000 Combined Single Limit for Bodily Injury & Property Damage
• Workers' Compensation	Statutory Limits for the State(s) in which the work is performed	Statutory Limits for the State(s) in which the work is performed	Statutory Limits for the State(s) in which the work is performed
• Employers Liability	\$1,000,000 Each Accident \$1,000,000 Each Employee – Disease \$1,000,000 Policy Limit - Disease	\$ 500,000 Each Accident \$ 500,000 Each Employee – Disease \$ 500,000 Policy Limit - Disease	\$ 100,000 Each Accident \$ 100,000 Each Employee – Disease \$ 100,000 Policy Limit - Disease
• <sup>(1)</sup> Environmental Liability	\$5,000,000 Each Occurrence	\$1,000,000 Each Occurrence	\$1,000,000 Each Occurrence
• Umbrella Liability	\$5,000,000 Each Occurrence \$5,000,000 Aggregate	\$3,000,000 Each Occurrence \$3,000,000 Aggregate	\$1,000,000 Each Occurrence \$1,000,000 Aggregate
• <sup>(2)</sup> Professional Liability	\$1,000,000 Each Occurrence	\$1,000,000 Each Occurrence	\$1,000,000 Each Occurrence

<b>GENERAL REQUIREMENTS FOR ALL INSURANCE</b>	
A	Owner's Agent (Colliers International Asset & Property Management Services), Owner (FCA Fund Chicago II, LLC, FCA-III & FCA Partners, LLC) and Lender (Mass Mutual Financial Group) are named as Additional Insured on a primary basis under the General policy. General Liability insurance shall be provided on an ISO Commercial General Liability form without any additional limiting or exclusionary endorsements amending the terms contained therein.
B	Limits required for General, Auto or Employers Liability can be met with higher Umbrella Liability limits.
C	A Waiver of Subrogation is to be provided to Owners Agent and Owner for GL, Auto Liability and Workers' Compensation.
D	Certificate Holder should be in the name of the Owner FCA Fund Chicago II, LLC
E	Certificate must evidence 30 days written notice of cancellation or non-renewal in coverage with words "endeavor to" deleted.
F	Original certificate of insurance (Acord form) to be delivered to Owner's Agent prior to commencement of any work or service.
G	Vendor required to pay all deductibles or self-insured retentions carried under these policies of insurance.

**GENERAL CONTRACTOR GENERAL LIABILITY LIMIT REQUIREMENTS**

Exposure	Type	No. of Stories	Min. Amount
Office	Metropolitan	1 to 24	\$50,000,000
		25 to 39	\$100,000,000
		40 to 100	\$200,000,000
	Suburban*	Less than 8	\$10,000,000
		8 or more	\$25,000,000
Retail	Mall	All	\$25,000,000
	Strip Centers*	All	\$10,000,000

*\*However, as respects demolition, required minimums shall be no less than \$25,000,000, or amount shown above, whichever is greater.*

The certificate holder should read as follows:

FCA Fund Chicago II, LLC  
 c/o Colliers International  
 8420 W. Bryn Mawr Ave.  
 Chicago, IL 60631

**EXHIBIT C****PARKING RULES AND REGULATIONS**

The following rules, regulations and rights (these "Rules", collectively) apply to the use of all portions of the Complex designated from time to time by Landlord as parking areas (the "Parking Areas");

1. Only Tenant and employees of Tenant may park their motor vehicles in those portions of the Parking Areas designated by Landlord from time to time as unreserved tenant parking areas (the "Unreserved Parking Areas").
2. No motor vehicle shall be parked in the Unreserved Parking Areas without an official U.S. Cellular Plaza decal or card affixed to the window or windshield thereof or placed in a visible position therein.
3. Tenant or any employee of Tenant who desires to park a motor vehicle in the Unreserved Parking Areas may obtain a parking decal or card by making personal application therefor at the office of the Complex and informing Landlord in writing of the make, year, color, and license plate number of the motor vehicle of said party. Any such application by an employee of Tenant shall include appropriate evidence of employment of such person at the Premises by Tenant.
4. Guests, invitees, and visitors of Tenant may park their motor vehicles only in those portions of the Parking Areas designated by Landlord from time to time as the Tenant Visitor Parking Spaces or other visitor parking areas (the "Visitor Parking Areas").
5. Only Tenant and those employees, guests, invitees, and visitors of Tenant who are physically handicapped may park their motor vehicles in those portions of the Parking Areas designated by Landlord from time to time as handicapped parking areas (the "Handicapped Parking Areas").
6. Parking in the Unreserved Parking Areas, the Visitor Parking Areas (excluding Tenant's Visitor Parking Areas), and the Handicapped Parking Areas shall be on a nonexclusive, "as-available" basis.
7. Only Tenant and those employees of Tenant who have entered into a separate parking license agreement (a "Parking License Agreement") with Landlord may park their motor vehicles in those portions of the Parking Areas designated by Landlord from time to time as reserved parking areas (the "Reserved Parking Areas").
8. Tenant or any employee of Tenant who desires to enter into a Parking License Agreement with Landlord for a parking space in the Reserved Parking Areas shall make application therefor at the office of the Complex.
9. Parking License Agreements will be entered into with Tenant, employees of Tenant, other tenants of the Complex, and the employees of such other tenants on an "as-available" basis.
10. No representation or warranty is made by Landlord as to the number or location of parking spaces comprising the Parking Areas, or any portion thereof.
11. Motor vehicles shall only be parked in striped parking spaces located within the Parking Areas and no motor vehicles shall be parked in any other location within the Complex.

12. Not more than one motor vehicle may be parked on each parking space and no motor vehicle may be parked on more than one parking space.

13. Parking Areas shall not be used for any purpose other than the parking of permitted motor vehicles thereon. No commercial activity shall be conducted from the Parking Areas.

14. No repairs (other than emergency repairs) or washing of motor vehicles shall be permitted in the Parking Areas.

15. Tenant, its employees, agents, guests, visitors, and invitees assume full responsibility, and Landlord shall have no liability for, (a) any and all loss, damage, injury, or death caused to the person or property of third parties by reason of their use of the Parking Areas; and (b) protecting their motor vehicles against theft, vandalism, and damage and for protecting their person against injury and assault by reason of their use of the Parking Areas, except to the extent caused by the negligence or willful misconduct of the Landlord Parties.

16. Tenant shall indemnify the Landlord Parties, and each of them, against all loss, damage, cost, and expense (including attorneys' fees) sustained by the Landlord Parties, or any of them, by reason of the use of the Parking Areas by Tenant, its employees, agents, guests, visitors, and invitees, or by violation of these Rules by any of said persons, except to the extent caused by the negligence or willful misconduct of the Landlord Parties.

17. Tenant expressly agrees that Landlord shall have the right to tow motor vehicles of Tenant and its employees, agents, guests, and visitors which are parked in violation of these Rules.

18. A violation of these Rules shall entitle Landlord to revoke the parking privileges of the offending party, in addition to other rights and remedies available to Landlord. Subject to the terms and provisions of this Lease, Landlord reserves the right from time to time, with prior written notice to Tenant, to (a) change the location or configuration of the Parking Areas, or any portion thereof; (b) change the number of parking spaces located within the Parking Areas, or any portion thereof (so long as Tenant's parking rights under Article 27 of the Lease are not reduced thereby); (c) install systems to control and monitor parking in the Parking Areas, or any portions thereof, including without limitation, a parking gate and identification card system; (d) utilize parking guards or attendants to supervise and control parking within the Parking Areas and to enforce these Rules; (e) designate the commercially reasonable terms, conditions, and charges upon which Parking License Agreements will be entered into by Landlord; (f) have full access to the Parking Areas (including the right to close or alter the means of access to the Parking Areas, or portions thereof) to make repairs and alterations thereto, to prevent a taking by adverse possession or prescription or to comply with applicable Laws (provided Landlord uses commercially reasonable efforts to minimize the period of closure and/or interference); (g) impose limitations on the quantity of parking decals or cards to be issued to Tenant for the Unreserved Parking Areas, provided that such limitations are uniformly applied to all tenants of the Complex; (h) reasonably modify these Rules by posting notices thereof in the Common Areas or by other means deemed commercially reasonable by Landlord; (i) tow motor vehicles parked in violation of these Rules; and (j) enforce these Rules by appropriate legal action.

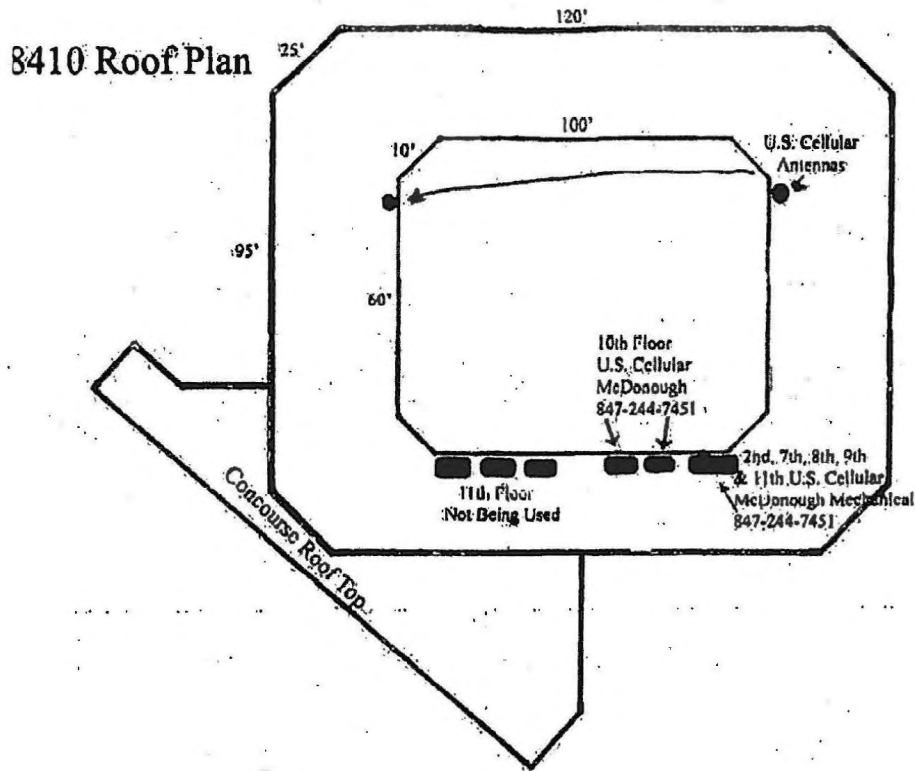
Notwithstanding anything to the contrary contained in the Lease or this Exhibit B, in the event of any conflict between the Lease and this Exhibit B, the Lease shall govern and control.

**EXHIBIT D**

[INTENTIONALLY OMITTED]

**EXHIBIT E**

**TENANT ROOF SPACE**



**EXHIBIT F****DESCRIPTION OF ANTENNAE****OMNIDIRECTIONAL COLLINEAR ANTENNA  
To be Installed on Roof of 8410 Building****Description:**

The antennas, model PD1108 is of fiberglass construction which protects radiating elements in hostile environments, composed of copper radiating elements which minimize possible generation of intermod products.

The mechanical specifications of the PD1108 antenna are as follows:

Overall length:	8.27 ft./2.52 m.
Element Housing length:	6.10 ft./1.86 m.
Support Pipe Diameter:	2 ¾ in./70 mm.
Support Pipe length:	24 in./610 mm.
Weight:	10 lbs./4.5 kg.
Radiating element material	Copper
Element housing material:	Fiberglass
Support pipe material	6061-7'6 aluminum
Wind loading area flat plat equivalent	.85 ft. <sup>2</sup> /0.079 m <sup>2</sup>
Rated wind velocity	100 mph./161 km/hr.
Lateral thrust@ 100 mph.	34 lbs./15.5 kg.
Bending moment @ 100 mph 1 inc. (25.4 mm) below top of support	68 ft./9.4 kg.
Mounting hardware – supplied	PD46 Clamp Set
Shipping weight	29 lbs./13.2 kg.
Shipping volume	1.4 ft. <sup>3</sup> /0.04m <sup>3</sup>
Shipping mode	Common carrier

In order to connect the antenna to the Tenants' Premises, a 7/8" coax cable is required because distance given by building management.

**EXHIBIT G****HVAC SPECIFICATIONS**

Heating, ventilating and air conditioning equipment in each Building shall be capable of maintaining the following interior conditions when the following maximum outside conditions exist, subject to the conditions set forth in the Lease:

<u>Inside Conditions*</u>	<u>Outside Conditions*</u>
76° F (dry bulb)	up to 95° F (dry bulb) up to 75° F (wet bulb)
72° F	down to -2° F
65° F	down to -10° F
Occupant Load	1 person per 170 sq. ft. (rentable)**
Equipment & Lighting Load	5.0 watts per sq. ft. (usable)

*\* Provided a heat gain/loss on an individual floor does not adversely influence or impair the overall building capability to meet the HI/AC design criteria specifications. Components used in calculating heat gain/loss are: people per floor at peak occupancy; total amount of equipment estimated at peak usage; indoor self contained cooling units that reject heat back into the space; square footage of floor area; square footage of wall area (less glass) by exposure and by floor location; type of wall construction; square footage of glass area by exposure and by floor location; type of glass; any auxiliary cooling other than listed above and normal outdoor air usage.*

*\*\* Notwithstanding the foregoing general occupant load, it is acknowledged and agreed that (i) with respect to the sixth (6th) floor of the 8410 Building only, Tenant's approximate occupant load as of the Date of this Lease is one (1) person per 121 square feet (rentable) thereon, (ii) that such occupancy load by Tenant on the sixth (6th) floor of the 8410 Building shall not be deemed a default under this Lease so long as the same is permitted under applicable Laws, (iii) Landlord shall not be deemed in default under this Lease due to any failure of the 8410 Building's HVAC system to meet the above-referenced HVAC specifications on the sixth (6th) floor of the 8410 Building to the extent attributable to such excess occupancy load by Tenant thereon, and (iv) Tenant shall be responsible, at Tenant's election and at Tenant's sole cost and expense, for the installation of any supplemental HVAC systems or components necessary to meet the above-referenced HVAC specifications on the sixth (6th) floor of the 8410 Building to the extent attributable to such excess occupancy load by Tenant hereunder, subject in all events to the applicable terms and provisions of this Lease.*

**EXHIBIT H****CLEANING SPECIFICATIONS****TENANT AREAS**

Dust mop hard surfaced flooring with specially treated cloths to insure dust free floors *nightly*.

Sweep and damp mop all uncarpeted areas to remove spills, stains, heel marks, etc. Completely damp mop all heavily trafficked areas, including corridors, entrance areas, cafeterias/vending areas, kitchens and coffee rooms *nightly*.

Vacuum carpeted areas and rugs *nightly*. Detail vacuum edges and underneath desks *once per week*.

Change vacuum bags two (2) times per floor. Remove bags before storing vacuum each night. Bagless vacuums must be emptied and wiped down at each fill.

Spot clean carpeting to remove soluble spills, spots, stains, etc., which safely respond to standard spotting procedures without risk of injury to carpet fabric or color *nightly*.

Empty all waste containers and replace plastic liners in accordance with building's recycling program. Damp wipe waste containers as necessary. Can liners to be furnished by *building*.

Remove waste paper and waste materials to the dock area of the building using janitor carts/carriages. Clear heavy duty plastic liners used in the janitor cart/carriages will be supplied by the CONTRACTOR. CONTRACTOR'S personnel to place waste material in compactors in accordance with building's recycling program and operate compactors *nightly*.

Dust with a treated cloth or mitt all horizontal surfaces that can be reached without a ladder, i.e., desks, file cabinets, binder bins, cubicles, window sills, book cases, ledges, trim, etc. *nightly*.

Damp wipe and towel dry conference room tables *nightly*.

Spot clean to remove dirt, finger marks, smudges, etc. from all doors, door frames, switch plates, walls, glass areas adjacent to doors, push plates, handles, railings, etc. *nightly*. Clean polish and sanitize all drinking fountains and water coolers using germicidal solution *nightly*.

Wash glass in directories *nightly*.

Wet sponge wipe table tops in employee lounges *nightly*.

Breakrooms - empty trash and wipe off trash receptacles as needed. In addition, at Tenant's request and at Tenant's sole cost and expense via separate charge to Tenant, refill paper towels and other products as direct by Tenant, wipe down microwaves inside and out, and wipe exterior of refrigerators and dishwashers *nightly*.

Spot clean all glass entrance doors and side panels to remove finger marks, smudges, etc. *nightly*.

Turn off lights and secure space when work assignments are complete *nightly*.

Wash all glass entrance doors and side panels inside and out *once per week*.

Dust baseboards, chair rails, trim, louvers, moldings and other "low-dust" areas *once per week*.

Damp wipe all desk tops, credenza tops, table tops, counter tops and any other horizontal surfaces as necessary, but not less frequently than *once per week*.

Damp wipe clean interior building metal including doors, knobs, hinges, lock face plates, door saddles, push plates, kick plates, etc. Using a cloth dampened with water only *once per week*.

Do high dusting which includes the following *once every three months*:

Dust pictures, frames, charts, graphs, and similar wall hangings not reached in nightly cleaning.

Dust clean all lighting fixtures, exposed pipes and ducts, ceiling vents, etc.

Dust clean all vertical surfaces such as partition, ventilating louvers and vents, walls, trim, etc. not reached in nightly cleaning.

Dust tops of cabinets, files, partitions, etc. not reached in nightly cleaning.

Wash all glass partitions on interior walls and doors *once every three months*.

Machine strip, refinish and buff all resilient tile and other hard surfaced flooring using an approved, high solid, non-slip, non-staining, buffable floor finish *twice per year*.

Wash and clean baseboards during floor refinishing operations *twice per year*.

Wash and clean all vinyl base *once per year*.

#### **MAIN ENTRANCES AND ALL OTHER LOBBIES**

Dust-sweep and wash hard surfaced flooring. Remove gum, tar, and other foreign matter from flooring *nightly*.

Spray-buff marble, terrazzo and similar flooring using materials recommended by marble installer *nightly*.

If floor mats have been used during the day, they shall be thoroughly vacuumed and cleaned *nightly*.

Dust baseboards, trim, louvers, moldings, pictures, planters, furnishings, guard stations, ledges and all other fixtures *nightly*.

Clean building directory, mail depository and all other decorative metal as needed, using a cloth dampened with water only *nightly*.

Completely clean all entrance and revolving door glass and entryway glass sidelights; clean all glass in building directory *nightly*.

Empty and clean all waste receptacles and remove waste material to designated areas in the building. Dispose of waste and replace plastic liners in accordance with building's recycling program *nightly*.

Remove dirt, finger marks, smudges, etc. from doors, door frames walls up to twelve feet, switch plates, glass, push plates, handles, railings, moldings, trim etc. Damp wipe metal trim as necessary using water only *nightly*.

Using materials recommended by marble installer, machine strip, refinish and buff marble and similar flooring using non-staining, non-slip, buffable floor finish as necessary but not less frequently than *once per month*.

Do high dusting (as specified under tenant areas) *once per month*.

Completely clean floor mats as necessary, but not less than *once per month*, using method(s) recommended by floor mat manufacturer(s).

Wash all marble, granite and other similar wall surfaces *once every six months*.

Clean lights, globes, and fixtures *once every six months*.

#### **ELEVATOR LOBBIES AND PUBLIC CORRIDORS**

Clean and wipe down drinking fountains *daily*.

Dust sweep hard surfaced flooring with specially treated cloths to insure dust-free floors *nightly*.

Wash and spray buff tile, terrazzo, marble, etc. flooring *nightly*.

Thoroughly vacuum and remove spots and stains from carpeting, including edges and corners *nightly*.

Empty and clean waste receptacles in accordance with building's recycling program (replace plastic liners) *nightly*.

Dust baseboards, trim, louvers, moldings, pictures, doors, planters, and all other fixtures, etc. within reach. Wipe clean all signage *nightly*.

Remove dirt, finger marks, smudges, etc. from doors, door frames, wall, switch plates, glass, push plates, handles, railing, molding, trim, etc. Wipe metal trim as necessary using cloth dampened with water only *nightly*.

Machine strip, refinish and buff resilient tile, terrazzo, marble, etc. flooring using approved, non-slip, non-staining, buffable floor finish *once every two months*.

Do high dusting (as defined under tenant areas) *once every two months*.

Completely clean carpeting *once every three months*, using method(s) recommended by carpet manufacturer(s).

Wash marble, granite and other similar wall surfaces *once every six months*.

Clean lights, globes, and fixtures as necessary but not less than *once per year*.

#### **PUBLIC LAVATORIES**

Sweep and wash flooring with approved germicidal detergents at disinfectant strengths *nightly*.

Wash and polish mirrors, and all chrome and other bright work including shelves, flushometers, exposed piping, toilet seat and partition hinges, dispensers, and all other washroom fixtures *nightly*.

Wash all surfaces of toilets and urinals with approved germicidal detergent solution at disinfectant strength. Bowl cleaner to be used in the interior *nightly*.

Wash clean all wash basins and counter tops *nightly*.

Spot clean partitions, tile walls, and doors with special attention to areas behind sinks, around urinals and around entrance. Remove graffiti *nightly*.

Replenish paper supplies as necessary as provided by *building*.

Empty and clean towel and sanitary disposal receptacles and waste material and refuse to designated area in the building using janitor carts/carriages. Replace liners in all receptacles with liners supplied by building. Wash clean receptacles *nightly*.

Clean and flush floor and other drains using germicidal detergent solutions *once per week*.

Refill toilet paper, paper towels, hand soap and sanitary products *nightly*. Supplies to be furnished by *building*.

Wash partition, tile walls and enamel painted surfaces with approved germicidal detergent solution *once per week*.

Remove hard water stains from toilet fixtures by using one ounce of bowl cleaner after normal cleaning. Follow manufacturer's recommendations.

Do high dusting and damp wipe ceiling vents *once per month*.

Wash clean lighting fixtures as needed *once per year*.

### **STAIRWAYS**

Police stairwells and remove trash and debris *daily*.

Spot clean doors and walls *daily*.

Dust mop stair and landings; dust handrails and other horizontal surfaces *weekly*.

Dust all vertical surfaces and light fixtures not dusted weekly *once per month*.

Wash stairs and landings *once per month*.

Do high dusting (as defined in tenant areas) in stairwells *once every three months*.

### **ELEVATORS**

Floors in elevator cabs will be properly maintained. Vacuum and remove spots from carpeted areas and sweep and wash hard surfaces *nightly*.

Clean and polish doors, inside and outside, using a cloth dampened with water only *nightly*.

Clean elevator saddles, door tracks, etc. keeping them free from dirt and debris, polish regularly as needed *nightly*.

Hand clean and polish baseboards, trim railings, etc. using a cloth dampened with water only on all bronze surfaces *nightly*.

Keep walls, panels, etc. clean and free from finger marks and smudges *nightly*.

Clean carpeting by method recommended by manufacturer as necessary, but not more frequently than *once per week*.

Wash clean and dry light fixtures and ceiling grilles.

#### **BUILDING SERVICE AREAS AND BUILDING EXTERIOR**

Keep locker rooms, showers, rest rooms, engineers' offices, security office, dock office, janitor closets, etc. in neat and clean condition at all times *nightly*.

Sweep dock, service corridor and receiving area and remove all trash and debris. Wet mop as needed *nightly*.

Wash flooring in dock, service corridors and receiving area *once per week*.

Machine scrub or pressure wash dock, service corridors and receiving area *once per month*.

#### **MISCELLANEOUS**

CONTRACTOR shall pad vacuums, carts and other equipment to prevent scratches and other damage in furniture, door frames, etc. Cleaning personnel shall be instructed not to pull cords around corners.

Report to building management any use of electrical/telephone closets for storage.

Report to building management any observed building deficiencies, e.g., leaking or inoperable faucets, plugged sinks or toilets, broken fixtures, inoperable lights or switches, loose baseboards, faulty locks, burned out light bulbs, etc.

At the conclusion of all work assignments, lights are to be turned off, doors closed and locked, chairs centered and gently pushed under tables or desks so as not to scratch furniture, and premises left in neat and orderly condition.

Return all keys, card keys, radios and any other building equipment signed out that day.

In addition, Landlord shall require in its service agreements or contracts with Landlord's janitorial contractor (the "Janitorial Contractor") from time to time the following provisions (or provisions substantively equivalent thereto), subject to such modifications as may then be prevailing at Comparable Buildings or as may be required by applicable Law<sup>3</sup>, and shall use commercially reasonable efforts to enforce such requirements as against Janitorial Contractor:

- (i) Janitorial Contractor shall comply with all Laws, including having a policy of equal employment opportunity, and will supply certification upon request. Janitorial Contractor shall also have an up-to-date Affirmative Action Plan approved by the U.S. Department of Labor. Such plan must be maintained on file, and made available for review by Tenant upon request;

(ii) All Janitorial Contractor personnel provided are U.S. Citizens or are otherwise legally entitled to accept employment with Janitorial Contractor and to perform services under this Lease. Janitorial Contractor is required to complete a criminal background check on all Janitorial Contractor employees that work at the Premises; and

(iii) Janitorial Contractor will not refer, either directly or indirectly, to Tenant or its Affiliates in any advertising or other published materials without the prior written consent of Tenant.

**EXHIBIT I**

**TENANT COMPETITORS**

**EXHIBIT J**

**APPROVED CONTRACTORS**

**General Contractors:**

Clune Construction  
Pepper Construction  
Turner Construction  
Leopardo Construction  
Executive Construction, Inc.  
Interior Construction Group  
Skender Construction

**Movers:**

3MD  
Pickens Kane  
Boyer Rosene  
Reebie  
Anderson

**Electrical Contractors:**

Conner Electric  
Continental Electric  
Gibson Electric  
EDS - Electrical Design Systems  
Maron Electric  
Titan Electric

**Carpentry/Drywall:**

Tempus  
Anning Johnson  
RG Construction

**HVAC Contractors:**

Midwest Mechanical  
Admiral  
Hill Mechanical  
State Mechanical

**Fire Protection:**

Great Lakes  
F. E. Moran  
U.S. Fire Protection

**Plumbing:**

John's Plumbing  
F.E. Moran  
Great Lakes

**Ceilings:**

Airtite

**EXHIBIT K**

**EXISTING TENANT RIGHTS**

**EXHIBIT L**

**TERMINATION FEE AMORTIZATION SCHEDULE**

**EXHIBIT M**

**CONTRACTION FEE AMORTIZATION SCHEDULE**

**EXHIBIT N**

**RESPONSIBLE CONTRACTOR POLICY**



**Ohio Public Employees Retirement System**

**Responsible Contractor Policy  
February 2015**

**I. SCOPE**

This Responsible Contractor Policy ("Policy") of the Ohio Public Employees Retirement System ("OPERS") is designed to guide, in a manner consistent with OPERS statutory standards of fiduciary responsibility and prudence in managing its investments, the OPERS selection of independent contractors who provide building operations services and construction services to real estate properties owned by OPERS directly and through the Defined Benefit Fund ("OPERS' Properties"). The Policy seeks to ensure that OPERS contractors will be selected based upon demonstrated ability to provide high quality services, and thereby enhance the value of OPERS' Properties, as evidenced by their record of compliance with applicable statutes and payment of fair compensation and benefits to employees, as well as by their experience, reputation, responsiveness, fees, and dependability.

**II. PURPOSE**

OPERS supports and encourages fair compensation and fair benefits for workers employed by its contractors, subject to the requirements of Section 145.11(A) of the Ohio Revised Code ("ORC"), which states, in part:

The members of the public employees retirement board shall be the trustees of the funds created by section 145.23 of the Revised Code. The board shall have full power to invest the funds. The board and other fiduciaries shall discharge their duties with respect to the funds solely in the interest of the participants and beneficiaries; for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the public employees retirement system; with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims; and by diversifying the investments of the system so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

OPERS Investment Staff ("Staff") and others, who are involved in the management of the DB Fund's assets, are subject to the same fiduciary standards as the Board.

In addition, Section 145.11(B) of the ORC requires that

In exercising its fiduciary responsibility with respect to the investment of the funds, it shall be the intent of the board to give consideration to investments that enhance the general welfare of the state [of Ohio] and its citizens where the investments offer quality, return, and safety comparable to other investments currently available to the board.

In keeping with that concern, the OPERS Retirement Board ("Board") hereby adopts this Policy in order to support and encourage the engagement of contractors who can be expected to provide high quality services to OPERS' Properties, utilizing properly-trained and fairly-compensated employees, subject to OPERS' fiduciary principles of loyalty, care, skill, prudence, and diligence.

OPERS believes that the utilization of such contractors adds value to the investments by ensuring that essential building operations services and construction services are provided by adequately-trained, experienced, and motivated workers.

OPERS supports a healthy and profitable business environment through market competition, small business development, and control of operating costs. OPERS believes that an adequately compensated and trained workforce delivers a higher quality product and service.

### III. DEFINITION OF RESPONSIBLE CONTRACTOR

A Responsible Contractor is a contractor who: (1) has the appropriate experience, reputation, employee relations, responsiveness, fees, and dependability to perform the required work; and (2) provides workers a fair compensation and fair benefits, as evidenced by payroll and employee records, for the required work, based on market conditions.

### IV. LEGAL AUTHORITY

#### A. Fiduciary Responsibility

Notwithstanding any other considerations, the assets of OPERS shall be diligently and prudently invested and managed, in accordance with the fiduciary standards specified in Section 145.11 of the ORC, in the sole interest of plan participants and their beneficiaries, and for the exclusive purpose of providing benefits to its participants and their beneficiaries.

**V. COMPETITIVE RATE OF RETURN**

OPERS seeks to have its real estate investments managed and operated in a manner that is expected to produce a competitive rate of return for its participants and beneficiaries.

**A. Legal Compliance**

OPERS seeks to have all OPERS contractors comply with all applicable federal, state, and local laws, regulations, and ordinances, including (but not limited to) those related to insurance, withholding taxes, minimum wage, health and safety, and environmental matters.

**B. Non-Discrimination**

OPERS shall give equal consideration to minority owned and controlled firms, firms owned and controlled by women, and ventures involving those same firms that otherwise would meet the selection criteria for contractors and service providers.

**VI. PREFERENCE FOR A RESPONSIBLE CONTRACTOR**

Provided the basic requirements in the foregoing section have been satisfied, OPERS expresses a strong preference that Responsible Contractors be hired, in accordance with this Policy.

**VII. ROLES AND RESPONSIBILITIES****A. OPERS Retirement Board**

The Board and its Investment Committee are responsible for reviewing and approving this Policy.

**B. Investment Committee**

The Investment Committee ("Committee") is responsible for reviewing this Policy and recommending changes related to it to the Board for its approval. In addition, the Committee is responsible for monitoring activities and reviewing reports related to this Policy.

**C. Investment Staff**

The Board delegates authority to the Chief Investment Officer ("CIO") to implement this Policy.

Staff shall review real estate separate account external managers' annual reports regarding compliance with the Policy and make recommendations as needed for action to correct any pattern of non-compliance.

Staff shall develop probation list procedures that require the approval of the CIO and General Counsel.

**D. Enterprise Risk Department**

The Enterprise Chief Risk Officer ("ECRO") or delegee is responsible for monitoring compliance with this Policy, including guidelines established pursuant to it. If the ECRO determines that an exception to this Policy has occurred, the ECRO shall notify Staff, the CIO, the Executive Director and the Committee. In addition, the ECRO shall furnish annual reports to the Committee on each external separate account manager's compliance with this Policy.

**E. Separate Account External Managers**

Separate account external managers shall communicate this Policy to property managers of OPERS' Properties and to managers of OPERS real estate investment vehicles.

Separate account external managers shall maintain a simplified bid summary for each applicable contract. The summary should include identifying contract successful bidder, and bidder's status as a Responsible Contractor. Separate account external managers shall provide an annual report to OPERS Staff describing actions taken by such external manager to comply with this Policy, including those taken by property managers and their subcontractors.

Separate account external managers shall monitor and enforce compliance with this Policy including reasonable investigation of potential violations.

**F. Property Manager**

Property managers shall communicate this Policy in all bid documents seeking to secure construction or building service contracts subject to this Policy.

Property managers shall provide to separate account external managers property level annual reports regarding compliance with this Policy.

Property managers shall provide to separate account external managers, for each OPERS Property under management, a list of contracts subject to this Policy.

Property managers shall maintain a list of Responsible Contractors utilized at each OPERS Property.

**G. Contractor**

Contractors shall provide the property manager with Responsible Contractor documentation.

Contractors shall file with the property manager reports, certifications, and other forms as required by OPERS or the manager relating to this Policy.

**VIII. MONITORING AND REPORTING****A. Applicable Contracts**

This Policy applies to all contractors and subcontractors who provide building operations services and construction services to real estate properties owned by OPERS or through subsidiary entities. The contractors and subcontractors shall use their best efforts to comply with this Policy.

**B. Notification**

All current and prospective real estate separate account external managers shall be provided with a copy of this Policy.

**C. Contract Solicitation**

All requests for proposals and invitations to bid applicable contracts covered by this Policy shall be made in accordance with the terms of this Policy.

**D. Contracts and Contract Renewals**

All contracts and contract renewals entered into after the effective date of this Policy shall include the applicable provisions of this Policy. OPERS shall maintain a publicly available list of all of its properties, with relevant data that would allow any potential contractor to pursue a bid upon contract renewal.

**E. Minimum Contract Size**

This Policy shall apply to all contracts valued at \$25,000 or more. Contract value refers to the total project work to be contracted for without disaggregation by trade or task. Disaggregation designed to evade the requirements of this Policy shall not be permitted.

**F. Reporting**

All real estate separate account external managers and contractors shall collect and retain adequate data documenting their compliance with this Policy and shall be prepared to produce this data for review upon request. The ECRO or delegee shall provide annual reports to the Committee of the Board, in an acceptable format, demonstrating best efforts at compliance by external managers and contractors with this Policy.

**G. Definition of Fair Wages and Benefits**

This Policy does not mandate any strict definition of fair wages and benefits. This Policy recognizes and considers in the determination of fair wages and benefits indicators such as local wage practices, state law, labor market conditions, as well as prevailing wages.

**H. Neutrality**

When there is a legitimate attempt under the National Labor Relations Act by a labor organization to organize workers employed in construction, maintenance, operation, or services at an OPERS' property, OPERS encourages a position of neutrality.

**I. Enforcement**

OPERS shall place any external manager or property manager who fails to comply with this Policy on a probation list. OPERS shall review and monitor its relationship with any such external manager or property manager upon placement on the probation list according to the probation list procedures.

**CERTIFICATION OF RESPONSIBLE CONTRACTOR STATUS**

GENERAL INFORMATION			
Company Name _____			
Address _____	City _____	State _____	Zip _____
Telephone Number ( ) _____		Fax Number ( ) _____	
Ownership Structure (Please check one)			
<input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Joint Venture <input type="checkbox"/> Other _____			
Description of Service(s) Provided: _____			

RESPONSIBLE CONTRACTOR STATUS (Refer to definitions on reverse.)
Please check one of the following definitions to describe your company:
1. <input type="checkbox"/> Meets all Responsible Contractor requirements 2. <input type="checkbox"/> Meets none of the Responsible Contractor requirements 3. <input type="checkbox"/> Meets certain of the Responsible Contractor requirements
If you have checked box 3, please provide explanation below (attach additional pages if necessary)
Explanation: _____
_____
_____
_____

OWNER'S CERTIFICATION OF RESPONSIBLE CONTRACTOR STATUS
On behalf of the above-named company, the undersigned certifies that the information and responses provided herein are true, complete and accurate as of this date, and he/she is aware that any intentionally misrepresented or falsified information may result in disqualification from future contracting opportunities.
Signature _____ Date _____
Name (please print) _____ Title _____

This form was prepared for use in compliance with the Responsible Contractor Policy. Any contractor or subcontractor with a minimum contract size of \$25,000 should complete this form.

**INTRODUCTION:** Ownership has a deep interest in the condition of workers employed by ownership and its advisors. Ownership, through the Responsible Contractor Policy, supports and encourages fair wages and fair benefits for workers employed by its contractors, subject to fiduciary principles concerning duties of loyalty and prudence, both of which further require competitive returns on the ownership's real estate investments.

**DEFINITIONS:**

**Responsible Contractor:** A contractor who: (1) has the appropriate experience, reputation, employee relations, responsiveness, fees and dependability to perform the required work; and (2) provides workers a fair compensation and fair benefits, as evidenced by payroll and employee records, for the required work, based on market conditions.

**US Cellular Plaza  
Insurance Requirements**

	GRADE A	GRADE B	GRADE C
<b>VENDOR CLASSIFICATIONS</b>	<ul style="list-style-type: none"> <li>• Asbestos Removal <sup>(1)</sup></li> <li>• Boiler Repair/Maintenance</li> <li>• Carpentry Outside-- 3+ Stories</li> <li>• Chemical Sales &amp; Service</li> <li>• Construction Demolition/Excavation - see General Contractor</li> <li>• Crane Inspection &amp; Repair</li> <li>• Crane Rental Service</li> <li>• Elevator / Escalator</li> <li>• Explosive Delivery</li> <li>• General Contractors (see below for GL requirements)</li> <li>• Lagoon Dredging</li> <li>• Lift Truck</li> <li>• Painting - 3 Stories and Over</li> <li>• Roofing Contractor</li> <li>• Scaffolding Contractor</li> <li>• Waste Disposal - Regulated <sup>(2)</sup></li> <li>• Welding Supply Delivery &amp; Service</li> </ul>	<ul style="list-style-type: none"> <li>• Air Compressor Service</li> <li>• Architects &amp; Engineers <sup>(3)</sup></li> <li>• Carpentry Inside or &lt; 3 stories</li> <li>• Chemical &amp; Water Tank Cleaning &amp; Inspection</li> <li>• Central Station Alarm Monitor</li> <li>• Door Repair</li> <li>• Janitorial Service</li> <li>• Electrical Contractor</li> <li>• Gutter Contractor</li> <li>• HVAC</li> <li>• Insulation Installation</li> <li>• Lighting Repair</li> <li>• Painting - Under 3 stories</li> <li>• Paving/Concrete Work</li> <li>• Pest Control Services</li> <li>• Plumbing Contractor</li> <li>• Security Guard &amp; Patrol Service</li> <li>• Sheet Metal Work</li> <li>• Tile Flooring Contractor</li> <li>• Waste Hauling &amp; Waste Paper Delivery (unregulated)</li> <li>• Water Pump Repair</li> <li>• Well Pump Inspection</li> <li>• Window Cleaning &gt; 2 stories</li> </ul>	<ul style="list-style-type: none"> <li>• Specialty Construction</li> <li>• Delivery Companies</li> <li>• Lawn Care &amp; Landscaping (see Grade B if available)</li> <li>• Office Equipment Repair</li> <li>• Parking - Snow Removal, Sweeper</li> <li>• Parking Service with/ without Valet</li> <li>• Uniform Service</li> <li>• Vending Machine Contractor</li> <li>• Window Cleaning up to 2 Stories</li> <li>• Pressure Washer</li> <li>• Surveyor <sup>(4)</sup></li> <li>• Telephone Repair (Grade A if outdoor lines)</li> </ul>
<b>REQUIRED INSURANCE COVERAGE</b>			
• General Liability - including Contractual Liability and Completed Operations	\$1,000,000 Each Occurrence \$2,000,000 Aggregate	\$1,000,000 Each Occurrence \$2,000,000 Aggregate	\$1,000,000 Each Occurrence \$2,000,000 Aggregate
• Automobile Liability - including Hired and Non-Owned Vehicles	\$2,000,000 Combined Single Limit for Bodily Injury & Property Damage	\$1,000,000 Combined Single Limit for Bodily Injury & Property Damage	\$ 500,000 Combined Single Limit for Bodily Injury & Property Damage
• Workers' Compensation	Statutory Limits for the State(s) in which the work is performed	Statutory Limits for the State(s) in which the work is performed	Statutory Limits for the State(s) in which the work is performed
• Employers Liability	\$1,000,000 Each Accident \$1,000,000 Each Employee - Disease \$1,000,000 Policy Limit - Disease	\$ 500,000 Each Accident \$ 500,000 Each Employee - Disease \$ 500,000 Policy Limit - Disease	\$ 100,000 Each Accident \$ 100,000 Each Employee - Disease \$ 100,000 Policy Limit - Disease
• <sup>(5)</sup> Environmental Liability	\$5,000,000 Each Occurrence	\$1,000,000 Each Occurrence	\$1,000,000 Each Occurrence
• Umbrella Liability	\$5,000,000 Each Occurrence \$5,000,000 Aggregate	\$3,000,000 Each Occurrence \$3,000,000 Aggregate	\$1,000,000 Each Occurrence \$1,000,000 Aggregate
• <sup>(6)</sup> Professional Liability	\$1,000,000 Each Occurrence	\$1,000,000 Each Occurrence	\$1,000,000 Each Occurrence

GENERAL REQUIREMENTS FOR ALL INSURANCE	
A	Owner's Agent (Colliers International Asset & Property Management Services), Owner (FCA Fund Chicago II, LLC, FCA-III & FCA Partners, LLC) and Lender (Mass Mutual Financial Group) are named as Additional Insured on a primary basis under the General policy. General Liability insurance shall be provided on an ISO Commercial General Liability form without any additional limiting or exclusionary endorsements amending the terms contained therein.
B	Limits required for General, Auto or Employers Liability can be met with higher Umbrella Liability limits.
C	A Waiver of Subrogation is to be provided to Owners Agent and Owner for GL, Auto Liability and Workers' Compensation.
D	Certificate Holders should be in the name of the Owner FCA Fund Chicago II, LLC
E	Certificate must evidence 30 days written notice of cancellation or non-renewal in coverage with words "endeavor to" deleted.
F	Original certificate of insurance (Acord form) to be delivered to Owner's Agent prior to commencement of any work or service.
G	Vendor required to pay all deductibles or self-insured retentions carried under these policies of insurance.

**GENERAL CONTRACTOR GENERAL LIABILITY LIMIT REQUIREMENTS**

Exposure	Type	No. of Stories	Min. Amount
Office	Metropolitan	1 to 24	\$50,000,000
		25 to 39	\$100,000,000
		40 to 100	\$200,000,000
	Suburban*	Less than 8	\$10,000,000
		8 or more	\$25,000,000
Retail	Mail	All	\$25,000,000
	Strip Centers*	All	\$10,000,000

\*However, as respects demolition, required minimums shall be no less than \$25,000,000, or amount shown above, whichever is greater.

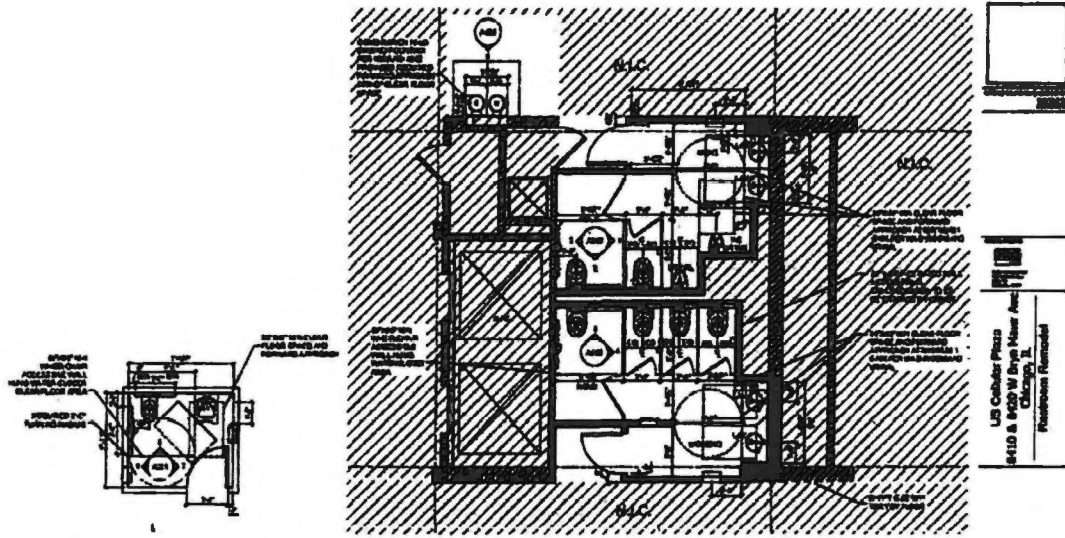
The certificate holder should read as follows:

FCA Fund Chicago II, LLC  
 c/o Colliers International  
 8420 W. Bryn Mawr Ave.  
 Chicago, IL 60631

EXHIBIT O

RESTROOM WORKPLANS

<p><b>US CELLULAR</b>          1st-11th Floor 8420 W Bryn Mawr Ave          4th-8th Floor 8420 W Bryn Mawr Ave          Chicago, Illinois</p> <p><b>Interior Multi-Floor Restroom Remodel and Installation</b></p> <p>GET DATE: 08/26/24          1. ISSUE TO CLIENT 07/20/24</p>	<p><b>GENERAL NOTES</b></p>	<p><b>SECTION</b></p>	<p>US Cellular Floor          8420 S. Bryn Mawr Ave          Chicago, IL          Restroom Remodel</p>
	<p><b>BASE MATERIALS</b></p>	<p><b>2ND FLOOR PLAN AND 3RD FLOOR PLAN</b></p>	
<p><b>DATE</b></p>	<p><b>SCALE</b></p>	<p><b>PROJECT NO.</b></p>	<p><b>PROJECT NAME</b></p>



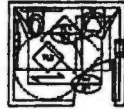
2 TYPICAL UNIBOX ACCESSIBLE RESTROOM  
Scale: 1/4" = 1'-0"

1 TYPICAL RESTROOM ENLARGED FLOOR PLAN  
Scale: 1/8" = 1'-0"

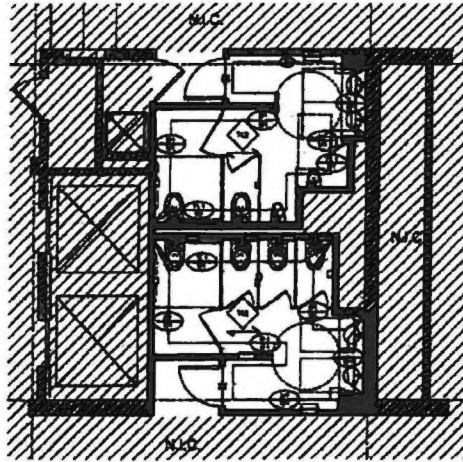
TYPICAL UNIBOX ACCESSIBLE RESTROOM				GENERAL NOTES		TYPICAL RESTROOM ENLARGED FLOOR PLAN	
NO.	DESCRIPTION	REVISION	DATE	1.	2.	3.	4.
1	UNIBOX ACCESSIBLE RESTROOM	AS SHOWN	09/18/2024	1. UNIBOX ACCESSIBLE RESTROOMS SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.	2. UNIBOX ACCESSIBLE RESTROOMS SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.	3. UNIBOX ACCESSIBLE RESTROOMS SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.	4. UNIBOX ACCESSIBLE RESTROOMS SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.
2	TOILET	AS SHOWN	09/18/2024	5. UNIBOX ACCESSIBLE RESTROOMS SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.	6. UNIBOX ACCESSIBLE RESTROOMS SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.	7. UNIBOX ACCESSIBLE RESTROOMS SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.	8. UNIBOX ACCESSIBLE RESTROOMS SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.
3	SINK	AS SHOWN	09/18/2024	9. UNIBOX ACCESSIBLE RESTROOMS SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.	10. UNIBOX ACCESSIBLE RESTROOMS SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.	11. UNIBOX ACCESSIBLE RESTROOMS SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.	12. UNIBOX ACCESSIBLE RESTROOMS SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.
4	SHOWER	AS SHOWN	09/18/2024	13. UNIBOX ACCESSIBLE RESTROOMS SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.	14. UNIBOX ACCESSIBLE RESTROOMS SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.	15. UNIBOX ACCESSIBLE RESTROOMS SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.	16. UNIBOX ACCESSIBLE RESTROOMS SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.

DATE	09/18/2024
BY	ARCHITECT
CHECKED	ENGINEER
SCALE	AS SHOWN
PROJECT	UNIBOX ACCESSIBLE RESTROOMS
LOCATION	UNIBOX ACCESSIBLE RESTROOMS
OWNER	UNIBOX ACCESSIBLE RESTROOMS
DESIGNER	UNIBOX ACCESSIBLE RESTROOMS
CONTRACTOR	UNIBOX ACCESSIBLE RESTROOMS
DATE	09/18/2024





② TYPICAL UNISEX ACCESSIBLE RESTROOM  
Scale: 1/8" = 1'-0"



① TYPICAL RESTROOM ENLARGED FLOOR PLAN  
Scale: 1/8" = 1'-0"

USE Cellular Phone  
 911 & 9112 to Alert Home Area  
 Callers II  
 Restrooms Reserved

GENERAL NOTES		FINISH SCHEDULE		FINISH PLAN LEGEND	
1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND SPECIFICATIONS.	2. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE ARCHITECT.	1. WALLS	2. CEILING	1. WALLS	2. CEILING
3. ALL FINISHES SHALL BE IN ACCORDANCE WITH THE ARCHITECT'S SCHEDULE.	4. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.	3. FLOOR	3. CEILING	3. WALLS	3. CEILING
5. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.	6. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.	4. FLOOR	4. CEILING	4. WALLS	4. CEILING
7. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.	8. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.	5. FLOOR	5. CEILING	5. WALLS	5. CEILING



The drawing set includes a main floor plan on the left showing the layout of the restroom with various fixtures and room divisions. To the right of the floor plan are several smaller drawings: a cross-section of a wall or partition, a detail of a door or window, and several smaller floor plan details for specific areas. The drawings are labeled with various alphanumeric codes and dimensions.

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Uc Cellular Plaza  
 8410 & 8420 W Bryn Mawr Ave  
 Chicago, IL  
 Restroom Remodel

DATE: \_\_\_\_\_  
 DRAWN BY: \_\_\_\_\_  
 CHECKED BY: \_\_\_\_\_  
 PROJECT NO.: \_\_\_\_\_

**EXHIBIT P****WINDOW FILM WORK SPECIFICATION**

There are (2) available options for window film, per discussion with Product Rep. either option will be suitable for installation on existing bronze tinted glass. Verification and manufacturer (Madico) signoff is required prior to purchase and installation to confirm this material will be sufficient.

**OPTION #1:**

**Madico Window Film - Reflective Silver 20 – \*PDF ATTACHED\***

**Summary Below:**

- Reflective Silver 20 helps block solar energy and keeps you more comfortable in your home or office.
- The exterior reflectivity provides privacy and helps lower your energy costs.
- Total Solar Energy Rejection 78.0%

**Product Benefits**

- Cuts Glare
- Increases Privacy
- Reduces Heat Gain
- Lowers Energy Costs
- Helps Shatter Resistance
- Rejects over 99% of UV Rays
- Slows Fading of Fabrics, Flooring

**OPTION #2:**

**Madico Window Film - Reflective Silver 30 – \*PDF ATTACHED\***

**Summary Below:**

- Reflective Silver 30 helps block solar energy and keeps you more comfortable in your home or office.
- The exterior reflectivity provides privacy and helps lower your energy costs.
- Total Solar Energy Rejection 68.0%

**Product Benefits**

- Cuts Glare
- Increases Privacy
- Reduces Heat Gain
- Lowers Energy Costs
- Helps Shatter Resistance
- Rejects over 99% of UV Rays
- Slows Fading of Fabrics, Flooring

**Selected option of window film to be installed on the following:**

**Building 8410:**

- **First (1<sup>st</sup>) Floor – 200 Total Windows**
- **(2<sup>nd</sup> through 11<sup>th</sup>) Second through Eleventh Floors – 1,100 Total Windows**

**Building 8420:**

- **First (1<sup>st</sup>) Floor – 176 Total Windows**
- **(2<sup>nd</sup> through 11<sup>th</sup>) Second through Eleventh Floors – 1,100 Total Windows**

**Building 8430:**

- **First (1<sup>st</sup>) Floor – 203 Total Windows**
- **(2<sup>nd</sup> through 11<sup>th</sup>) Second through Eleventh Floors – 1,100 Total Windows**

**\*Method of preparation of existing windows and installation of selected film to be broken down by manufacture specifications for the material selected.**



ARCHITECTURAL SERIES

## Reflective Silver 30

Reflective Silver 30 helps block solar energy and keeps you more comfortable in your home or office. The exterior reflectivity provides privacy and helps lower your energy costs.

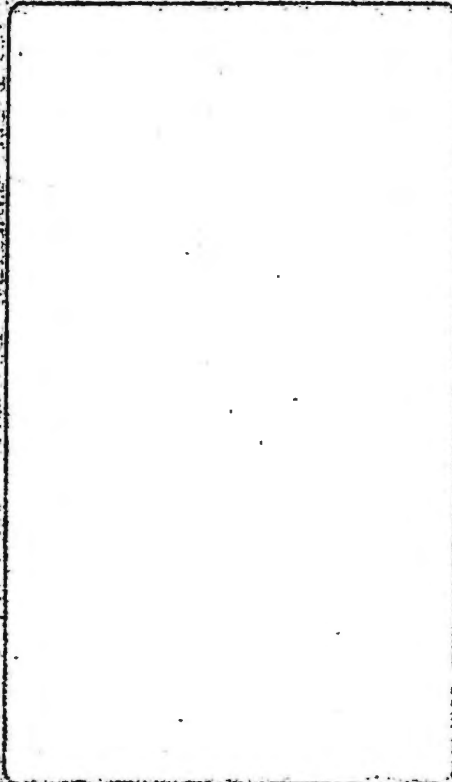
### Product Benefits

- Cuts Glare
- Increases Privacy
- Reduces Heat Gain
- Lowers Energy Costs
- Helps Shatter Resistance
- Reflects over 99% of UV Rays
- Slows Fading of Fabrics, Flooring

### Why Madico?

Madico window films are an elegant, practical solution for comfort, protection and natural appearance. With over 100 years of innovation, Madico is a leading provider of advanced products engineered to meet your needs. When selecting the right window film for your home or building, you can trust our professionally installed quality products.

[www.madico.com](http://www.madico.com)





ARCHITECTURAL SERIES

## Reflective Silver-30

### Technical Specifications

<b>Total Solar Energy:</b>	
Transmitted %	22.0
Reflected %	42.0
Absorbed %	36.0
<b>Visible Light:</b>	
Transmitted %	30.0
Reflected Exterior %	43.0
Reflected Interior %	42.0
Glare Reduction %	67.0
Solar Heat Gain Coefficient	0.32
Shading Coefficient	0.37
Luminous Efficacy	0.82
Total Solar Energy Rejection %	68.0
Infrared Rejection %*	88.0
U Factor	0.52
Emissivity	0.62
Ultraviolet Rejection %	Exceeds 99.0

\* Near IR range (780-2500nm)  
 Technical specification definitions can be found at [www.madico.com](http://www.madico.com)

Read in accordance with National Fenestration Rating Council (NFRC) standards on 3mm clear glass.

Reflective Silver 30 Performance on Installed Windows as Certified by the National Fenestration Rating Council (NFRC)

Type	Default Glazing Reference	SHGC without Film	SHGC with Film	VLT without Film	VLT with Film	U-Factor
Residential	3 mm (1/8in.) clear	0.72	0.28	0.74	0.24	0.98
Residential	3 mm (1/8in.) clear 3 mm (1/8in.) clear	0.64	0.34	0.67	0.23	0.67
Non Residential	6 mm (1/4in.) clear	0.73	0.30	0.78	0.26	0.91
Non Residential	6 mm (1/4in.) grey	0.52	0.30	0.29	0.13	0.91
Non Residential	6 mm (1/4in.) clear 6 mm (1/4in.) clear	0.63	0.37	0.69	0.24	0.58
Non Residential	6 mm (1/4in.) grey 6 mm (1/4in.) clear	0.41	0.27	0.35	0.12	0.58

† Dark/pink window

**Specification Use Statement**

Reported values are typical properties and should not be used as a specification. Since the user is aware of the specific conditions in which the product is to be used, it is the user's responsibility to determine whether the product is suitable for intended use. If you need verification regarding specific use or additional information, please contact Madico Window Films or your local Madico Authorized Dealer.

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**EXHIBIT Q**

**WINDOW BLIND WORK SPECIFICATION**

SWFContract™

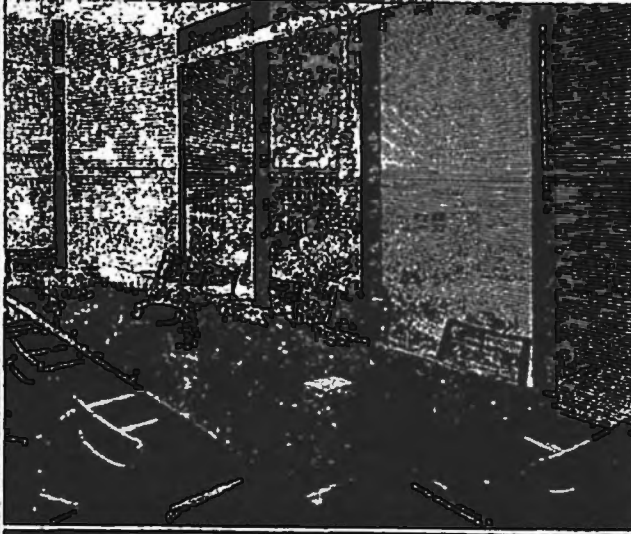
**BALI® ALUMINUM HORIZONTAL BLINDS**  
**SETTING THE STANDARD FOR**  
**COMMERCIAL APPLICATIONS**

BALI® Aluminum Horizontal Blinds from SWFContract provide a diverse selection of products, color selections, and optional features that can be customized to meet the design requirements of any commercial project.

Daylight is a proven factor in enhancing productivity in the workplace. Horizontal slats can be tilted, allowing sunlight deeper into the workspace and benefiting those who may be further from the window. In addition, blinds can be adjusted to provide glare control for visual comfort or closed for privacy.

BALI® Aluminum Horizontal Blinds are ideal for commercial applications where building owners expect key features, such as fire resistance, GREENGUARD Gold certification, and lower energy costs. They are also virtually maintenance free and come with a limited lifetime warranty—all at a price point that compares very favorably to other commercial window treatments. And because SWFContract is committed to providing world class customer service, they can ship in as few as three days\* at no extra cost.

\*Orders of up to 500 sq. ft. of BALI® Series A, C, and D, and Series B Aluminum Horizontal Blinds ship within five days of an order and, depending on access and quantity availability, primary slat blind blinds, roller blinds, and track mounting hardware, top rail controls, tie backs, and cordless hardware are included in the Roll-Down™ package.



swfcontract.com

**SWFCONTRACT**  
**THE SWFCONTRACT LINE OF BALI ALUMINUM**  
**HORIZONTAL BLINDS INCLUDES...**

**BALI S3000™ 1" ALUMINUM HORIZONTAL BLINDS**

The Bali S3000 delivers state-of-the-art features and performance.

- 1" x 1½" integrated head rail system features a gentle curved profile that blends seamlessly with the slat peak, providing a clean aesthetic from top to bottom
- Hidden, top-leading bracket system eliminates bar-style brackets, providing an uninterrupted view of the headrail while mounting the blind closer to the installation surface to virtually eliminate light leakage at the top of the headrail
- Light blocking lip on the back side of the headrail works in conjunction with the top slat to create a light barrier when the slats are tilted in the down position
- Optional Hidden Holes™ feature offers additional privacy and light control; cord holes are placed on the back edge of slats and are concealed when slats are tilted in the down position
- Cordless lift option eliminates standard operating cords, providing a child-safe solution that exceeds current industry standards



CHARLES A. SAMMONS CANCER CENTER AT BAYLOR UNIVERSITY MEDICAL CENTER  
 Bali S3000 with Hidden Holes

**BALI CLASSICS™ 1" ALUMINUM HORIZONTAL BLINDS**

An industry standard for over 40 years, Bali Classics blinds deliver outstanding performance and proven reliability. They can be configured in myriad special shapes, as well as incline and skylight applications.

- 1" x 1½" rectangular steel headrail
- Disengaging clutch and crash-proof cord lock
- Slat thickness and ladder spacing options
- Optional top lock cord lock: enhance the exterior appearance of a building; blinds will be uniformly down when in use, but can be reeled to the top locking position for window cleaning
- Optional SR limiters control the amount of slat closure—admitting daylight, allowing air to circulate, and preventing heat build-up



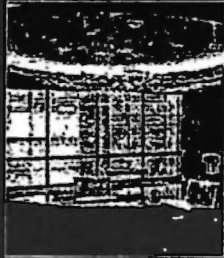
COOL SPRINGS III  
 Bali Classics

**BALI CUSTOMSER™ 1" ALUMINUM HORIZONTAL BLINDS**

Customizer blinds are manufactured with the same high quality components used in all Bali Aluminum Blinds.

- 1" x 1" slim profile steel headrail
- Disengaging clutch and crash-proof cord lock
- Optional top lock cord lock: enhance the exterior appearance of a building; blinds will be uniformly down when in use, but can be reeled to the top locking position for window cleaning
- Optional SR limiters control the amount of slat closure—admitting daylight, allowing air to circulate, and preventing heat build-up

Visit [swfcontract.com](http://swfcontract.com) to find complete specifications for these products and all of our other commercial window treatments.



3 WAITWAY SQUARE  
 Bali Customizer



Call 800-327-9798 or email [architectolutions@swfcontract.com](mailto:architectolutions@swfcontract.com)

**SPRINGS WINDOW FASHIONS**  
 The Best Experience Company

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**EXHIBIT R****BACKBONE WORK SPECIFICATION****FIRE ALARM NOTIFICATION BACKBONE:**

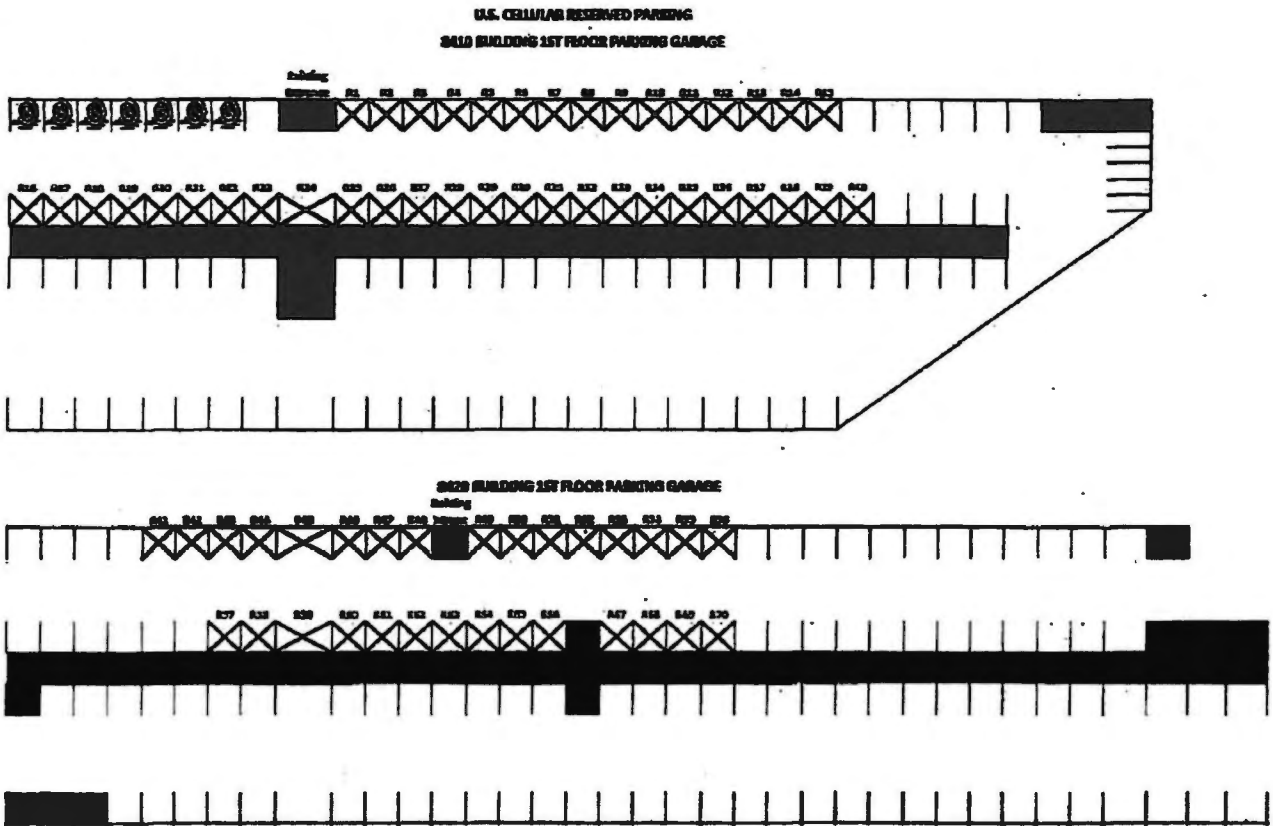
Landlord, at its own expense, will engineer and extend the existing fire alarm system to create a common vertical backbone riser. The backbone riser will include the necessary equipment required to power Tenant's newly installed notification devices as required by the current building code. Tenant will have the ability to tie into this riser on a floor-by-floor basis at its own expense.

**BUILDING AUTOMATION BACKBONE:**

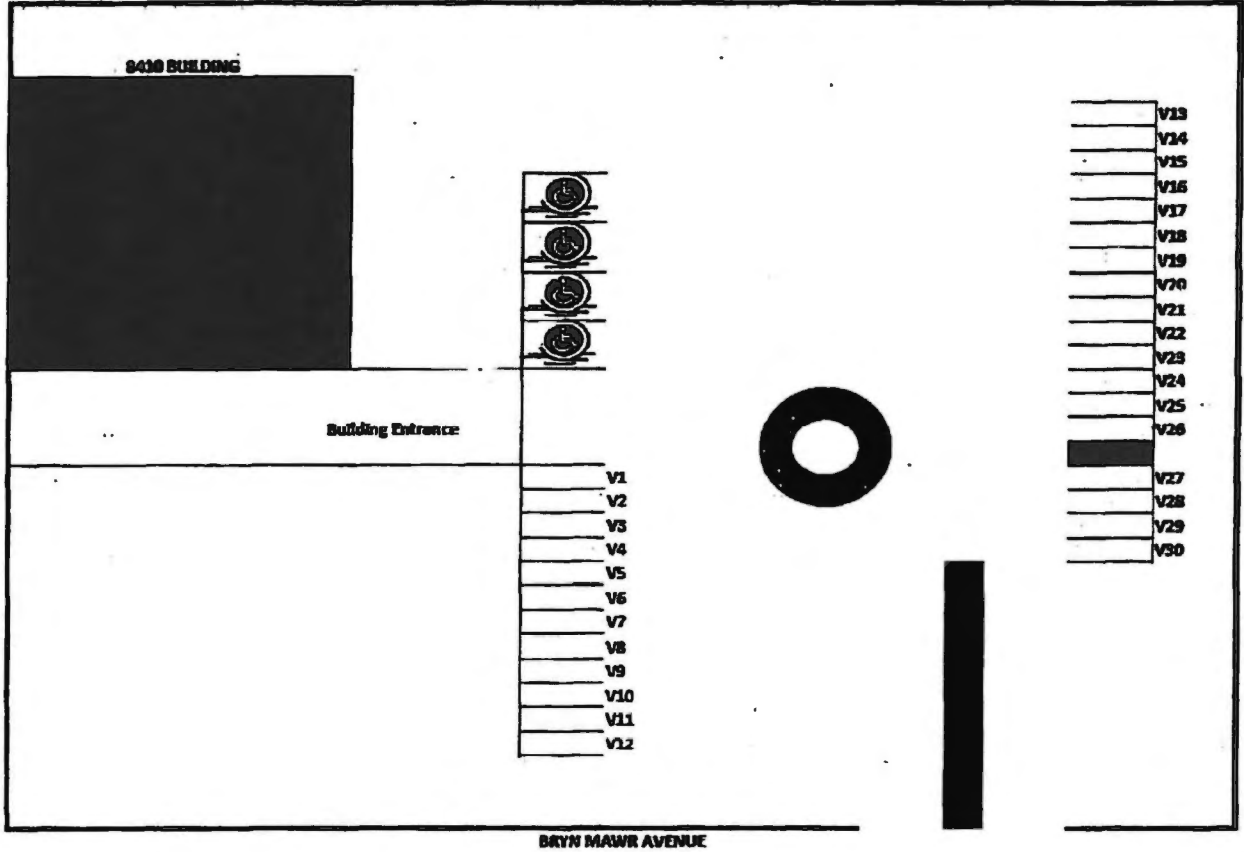
Landlord, at its own expense, will engineer and extend the existing building automation system network to create a common vertical backbone riser. The backbone riser will include the necessary network wiring that will allow for Tenant's installation of new Direct Digital Controls to all new and existing VAV boxes. Tenant will have the ability to tie into this riser on a floor-by-floor basis at its own expense.

**EXHIBIT S**

**RESERVED PARKING SPACES AND TENANT VISITOR PARKING SPACES**



U.S. Cellular Visitor Reserved Parking



**FIRST AMENDMENT TO  
SECOND AMENDED AND RESTATED OFFICE LEASE**

THIS FIRST AMENDMENT TO SECOND AMENDED AND RESTATED OFFICE LEASE (this "**Amendment**") is made and entered into as of September 15, 2017 (the "**Effective Date**"), by and between FCA FUND CHICAGO II, LLC, a Delaware limited liability company ("**Landlord**"), and USCC SERVICES, LLC, a Delaware limited liability company ("**Tenant**").

**RECITALS:**

A. Landlord and Tenant have heretofore entered into that certain Second Amended and Restated Office Lease dated as of April 1, 2016 (the "**Lease**"), for certain premises (collectively, the "**Premises**") currently consisting of (i) the entirety of Floors 1 through 11, inclusive, deemed to comprise 212,428 rentable square feet in the aggregate, located in the building commonly known as 8410 West Bryn Mawr Avenue, Chicago, Illinois (the "**8410 Building**"), and (ii) the entirety of Floors 4 through 9, inclusive, deemed to comprise 119,369 rentable square feet in the aggregate, located in the building commonly known as 8420 West Bryn Mawr Avenue, Chicago, Illinois (the "**8420 Building**"), which 8410 Building and 8420 Building are part of the property known as U.S. Cellular Plaza (the "**Complex**"), including the buildings and the land located at 8410-8430 West Bryn Mawr Avenue, Chicago, Illinois, for a term (the "**Term**") currently expiring on October 31, 2028.

B. Landlord and Tenant desire to modify certain of Landlord's construction obligations under Section 37.01 (Landlord Premises Work) and Section 37.02 (Landlord Non-Premises Work) of the Lease with respect to certain portions of the Landlord Premises Work and the Landlord Non-Premises Work, respectively.

C. Landlord and Tenant also desire to modify certain of Tenant's construction obligations under the Work Letter attached to the Lease.

D. Landlord and Tenant also desire to establish and confirm certain other matters with respect to the Lease, and to further amend the Lease, all on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant do hereby covenant and agree that the Lease shall be and hereby is modified as follows:

1. **Restroom Work Modifications.** Pursuant to Subsection 37.01.A.1 of the Lease, Landlord is required to install as part of the Landlord Premises Work the Restroom Work in both the Expansion Premises and the Existing Premises in substantial accordance with the Restroom Work Plans attached as Exhibit Q (Restroom Work Plans) to the Lease. Landlord and Tenant hereby agree that (a) the Restroom Work for the Expansion Premises is completed, and (b) the Restroom Work for the Existing Premises (as modified by this Paragraph 1) shall be completed no later than December 31, 2017, subject in all events to Force Majeure Events and Tenant Delay. Notwithstanding anything herein or in the Lease to the contrary, the Restroom Work in the Existing Premises shall be constructed in accordance with the plans attached as Exhibit Q (Restroom Work Plans - Rev. 08/17) hereto and incorporated herein (the "**Revised Restroom Work Plans**"), which Revised Restroom Work Plans have heretofore been reviewed and approved by each of Landlord and Tenant. The parties agree that all contractors', architects', and other third parties' costs and any other costs of creation of the Revised Restroom Work Plans shall be paid by Landlord. In the event Tenant desires any modification of the Revised Restroom

Work Plans, Tenant shall submit a request for such modification ("**Tenant Specified Modifications**") to Landlord in writing. Landlord shall permit such Tenant Specified Modifications in its reasonable discretion, provided that Tenant shall pay the cost of any Tenant Specified Modifications to the extent that the cost of such Tenant Specified Modifications exceeds the cost that would have been incurred for the substitute Building-standard items so reflected on the Revised Restroom Work Plans (which cost difference may, at Tenant's option, be subject to, and reimbursed from, the TI Allowance). To the extent additional construction, materials, contractor, labor, or other costs arise in connection with the completion of the Restroom Work (excluding costs resulting from Tenant Specified Modifications), such costs shall be paid by Landlord.

2. **Backbone Work Modifications.** Pursuant to Subsection 37.01.A.4 of the Lease, Landlord is required to install the Backbone Work in the Existing Premises in substantial accordance with the Backbone Work Specification attached as Exhibit R (Backbone Work Specification) to the Lease. Based upon Tenant's election to forego installation of the HVAC Diffuser Work (as more specifically described in Paragraph 6 below), and notwithstanding anything herein or in the Lease to the contrary:

(i) Landlord's obligation to install the Backbone Work as set forth in the Lease with respect to the Existing Premises shall be and is hereby modified to provide that the Backbone Work described in the Lease with respect to the Existing Premise shall consist of installation of NAC panels for the life safety portion and Cat5 cable up the vertical riser (HVAC) within the Existing Premises, which work shall constitute Landlord's complete and final obligation with respect to the Backbone Work in the Existing Premises; and

(ii) The date by which Landlord shall be required to substantially complete the Backbone Work in the Existing Premises shall be and is hereby established and confirmed as August 31, 2017 with respect to Floors 1 and 2 of the Existing Premises, and November 30, 2017 with respect to Floors 3 through 11, inclusive, of the Existing Premises, subject in all events (and in each case) to Force Majeure Events and Tenant Delay (provided, however, in no event shall Landlord construct, or be required to construct, such Backbone Work on more than two (2) full floors of the Existing Premises simultaneously). Tenant shall reasonably cooperate with Landlord to ensure the timely completion of the Backbone Work in the Existing Premises as aforesaid.

3. **First Floor Link Work.** Pursuant to Subsection 37.02.A.5 of the Lease, Landlord is required to install as part of the Landlord Non-Premises Work the Lobby Elevator Work in accordance with a Lobby Elevator Work Specification to be prepared by Landlord. Landlord has since determined, and has heretofore advised Tenant, that, in lieu of such Lobby Elevator Work, Landlord will construct and install a first-floor link between the 8410 Building and the 8420 Building, and a first-floor link between the 8420 Building and the 8430 Building (collectively, the "**First Floor Link**", and together with the construction and installation thereof, collectively, the "**First Floor Link Work**"), as set forth in the plans attached as Exhibit A hereto and incorporated herein (the "**First Floor Link Work Specification**"). Tenant has heretofore reviewed and approved such First Floor Link Work and First Floor Link Work Specification and hereby agrees that the First Floor Link Work shall be performed by Landlord in lieu of such Lobby Elevator Work. In furtherance of the foregoing, and notwithstanding anything herein or in the Lease to the contrary:

(i) Landlord shall construct the First Floor Link in substantial accordance with the First Floor Link Work Specification, and otherwise in accordance with the terms and provisions of Section 37.02 (Landlord Non-Premises Work) of the Lease, and Landlord represents to Tenant

that Landlord has obtained all governmental licenses, permits, or other authorizations required to complete the First Floor Link Work;

(ii) Effective as of the Effective Date hereof, (A) all references to the "Lobby Elevator Work" set forth in the Lease or in the Work Letter shall be deemed to mean and refer to the "First Floor Link Work", and (B) all references to "Lobby Elevator Work Specification" set forth in the Lease or the Work Letter shall be deemed to mean and refer to the "First Floor Link Work Specification";

(iii) Notwithstanding anything herein or in the Lease to the contrary, it is hereby acknowledged, understood, and agreed that the First Floor Link Work shall not be deemed to (A) materially and adversely interfere with Tenant's use of, or access to, the Premises under the Lease (provided, however, Landlord agrees that, during the performance of the First Floor Link Work, Landlord shall use all commercially reasonable efforts to ensure that Tenant shall have pedestrian access (including wheelchair access) to the front entry of the 8410 Building and the 8420 Building during Normal Business Hours), or (B) diminish Tenant's parking rights under Article 27 of the Lease in any material respect; and

(iv) Landlord's obligation to substantially complete the First Floor Link Work shall be and is hereby extended from August 1, 2017 to November 30, 2017, subject in all events to Force Majeure Events and Tenant Delay.

4. **Garage Lighting Work.** Pursuant to Subsection 37.02.A.4 of the Lease, Landlord is required to install as part of the Landlord Non-Premises Work the Garage Lighting Work in accordance with a Garage Lighting Work Specification to be prepared by Landlord. Landlord has since determined, and has heretofore advised Tenant, that, based on Landlord's construction of the First Floor Link Work as provided under Paragraph 3 above, the Garage Lighting Work is no longer necessary or practicable. Based on Tenant's review and approval of the First Floor Link Work and First Floor Link Work Specification as hereinabove provided, Tenant hereby agrees that the Garage Lighting Work is no longer necessary or practicable. In furtherance of the foregoing, and notwithstanding anything herein or in the Lease to the contrary:

(i) Landlord's obligation to install the Garage Lighting Work as set forth in the Lease shall be and is hereby excused, Tenant hereby irrevocable waives any right or interest in or to the Garage Lighting Work, Landlord shall have no further liability or responsibility therefor, and no Landlord Default shall arise, and no Tenant remedies may be exercised, as a result of any failure or refusal of Landlord to install all or any portion of such Garage Lighting Work; and

(ii) Effective as of the Effective Date hereof, (A) Subsection 37.02.A.4 of the Lease shall be and is hereby amended by deleting it in its entirety, (B) all references in the Lease or the Work Letter to the "Garage Lighting Work" shall be and are hereby amended by deleting them in their entirety, and (C) all references in the Lease or the Work Letter to the "Garage Lighting Work Specification" shall be and are hereby amended by deleting them in their entirety.

5. **Landlord Premises Work and Landlord Non-Premises Work.** Notwithstanding anything herein or in the Lease to the contrary, and without limitation of the terms and provisions of Paragraph 3 and Paragraph 4 above, it is hereby acknowledged, understood, and agreed that: (i) the date by which Landlord is obligated to substantially complete the Window Film Work under Subsection 37.01.A.2 of the Lease with respect to Floors 1 through 11, inclusive, of the Existing Premises and Floors 4 through 9, inclusive, of the Expansion Premises shall be and is hereby established and confirmed as November 30, 2017, subject in all events to Force Majeure Events and Tenant Delay; (ii) the date by

which Landlord is obligated to substantially complete the Window Blind Work under Subsection 37.01.A.3 of the Lease with respect to Floors 1 through 11, inclusive, of the Existing Premises and Floors 4 through 9, inclusive, of the Expansion Premises shall be and is hereby established and confirmed as November 30, 2017, subject in all events to Force Majeure Events and Tenant Delay; (iii) Landlord's obligation to substantially complete the 8420 Building Improvement Work under Subsection 37.02.A.1 of the Lease shall be and is hereby extended from August 1, 2017 to August 31, 2017, subject in all events to Force Majeure Events and Tenant Delay; (iv) Landlord's obligation to substantially complete the Exterior Landscaping Work under Subsection 37.02.A.2 of the Lease shall be and is hereby extended from August 1, 2017 to November 30, 2017, subject in all events to Force Majeure Events and Tenant Delay; and (v) Landlord's obligation to substantially complete the Connector Window Film Work under Subsection 37.02.A.3 of the Lease shall be and is hereby extended from August 1, 2017 to November 30, 2017, subject in all events to Force Majeure Events and Tenant Delay.

6. **HVAC Diffuser Work.** Pursuant to Subsection 1.b of the Work Letter, Tenant is required to install certain HVAC Diffuser Work along the perimeters of each floor throughout the Premises, all as more specifically described therein. Tenant has since determined, and has heretofore advised Landlord, that, in lieu of such HVAC Diffuser Work, Tenant plans on interlocking the baseboard heat with new VAV box distribution, installing DDC controls (as appropriate), and installing related improvements (collectively, the "Alternate HVAC Diffuser Work"). Landlord has heretofore conditionally approved the Alternate HVAC Diffuser Work in concept, subject to the following:

(i) Such Alternate HVAC Diffuser Work shall be and remain subject to the applicable terms and provisions of the Lease and the Work Letter, including, without limitation, Landlord's approval of all Plans therefor, which approval shall be in accordance with the applicable terms and provisions of the Work Letter;

(ii) The HVAC Diffuser Allowance set forth in the Lease shall be and remain available for application towards that portion of the Alternate HVAC Diffuser Work to be constructed and installed by Tenant in the 8410 Building, but shall otherwise be and remain subject to the applicable terms and provisions of the Lease and the Work Letter, including, without limitation, Subsection IV.b of the Work Letter, and Tenant shall be and remain responsible for all costs of the Alternate HVAC Diffuser Work in excess of the HVAC Diffuser Allowance;

(iii) Notwithstanding anything herein or in the Lease to the contrary, and irrespective of Tenant's construction and installation of the Alternate HVAC Diffuser Work as contemplated hereunder, Landlord's failure to meet the HVAC Specifications set forth in the Lease with respect to those portions of the Premises within which the HVAC Diffuser Work (as opposed to the Alternate HVAC Diffuser Work) has not been so completed by Tenant shall not be deemed a breach or default by Landlord under the Lease to the extent that such failure is caused by or results from Tenant's failure to so complete the HVAC Diffuser Work (as opposed to the Alternate HVAC Diffuser Work) therein as provided thereunder, it being acknowledged, understood, and agreed that the HVAC Specifications set forth in the Lease were based upon, and assumed, completion of the HVAC Diffuser Work (as opposed to the Alternate HVAC Diffuser Work) in the Premises;

(iv) Effective as of the Effective Date hereof, (A) Subsection IV.b.ii of the Work Letter shall be and is hereby amended by deleting it in its entirety, and (B) all references to the "HVAC Diffuser Work" set forth in the Lease or in the Work Letter shall be deemed to mean and refer to the "Alternate HVAC Diffuser Work"; and

(v) Subject to Paragraph 8 hereof, the Alternate HVAC Work shall be completed by Tenant in accordance with, and shall otherwise be and remain subject to, the terms and provisions of the Lease and the Work Letter.

7. **Tenant IDF Lines.** Subject to, and without limitation of, the applicable terms and provisions of the Lease, including, without limitation, Article 39 (Riser Space) thereof, it is specifically acknowledged, understood, and agreed that Tenant shall be permitted to install, run, and maintain, at Tenant's sole risk, cost, and expense, two (2) three-inch (3") cores with two-inch (2") pipes (the "Tenant IDF Lines") through the existing electrical/telephone closets within the 8420 Building for the purpose of running power from the 8420 Building's main electrical vault to the IDF rooms in the Premises. The Tenant IDF Lines shall (i) be installed, run, maintained, repaired, and replaced, as needed, by or at the direction of Tenant and at Tenant's sole risk, cost, and expense (it being specifically acknowledged, understood, and agreed that Landlord shall have no liability or responsibility whatsoever for the installation, maintenance, repair, and/or replacement of any such Tenant IDF Lines), (ii) be installed by Tenant as part of the TI and shall be and remain subject to the applicable terms and provisions of the Work Letter, including, without limitation, Landlord's reasonable approval thereof, and (iii) be and remain subject to the terms and conditions of this Lease and the reasonable rules and regulations applicable to the use thereof, and access thereto, as may be prescribed from time to time by Landlord.

8. **Allowance Application Deadline.** Notwithstanding anything herein or in the Lease to the contrary, the Allowance Application Deadline under Subsection IV.d.iii of the Work Letter shall be and is hereby extended from December 31, 2019 to December 31, 2022.

9. **Confirmation of Certain Lease Matters.** Effective as of the Effective Date hereof, it is hereby acknowledged and agreed as follows with respect to the Lease:

A. Landlord has heretofore substantially completed within the Expansion Premises those portions of the Landlord Premises Work consisting of the Restroom Work and the Backbone Work in accordance with the applicable terms and provisions of the Lease, and Tenant hereby accepts such Restroom Work and Backbone Work in the Expansion Premises as so completed by Landlord.

B. Tenant has inspected the Expansion Premises and affirms that Landlord has substantially completed the Restroom Work and the Backbone Work within the Expansion Premises and that such Restroom Work and Backbone Work is acceptable in all respects and has been satisfactorily completed by Landlord in accordance with the terms and provisions of the Lease.

C. The Turnover Date under Subsection 2.03.B of the Lease is hereby established and confirmed as September 27, 2016 (being the one hundred eightieth (180th) day following the Date of this Lease).

D. As a result of the substantial completion of the Restroom Work and the Backbone Work within the Expansion Premises as hereinabove confirmed, the terms and provisions of Subsection 2.03.D of the Lease shall be of no further force or effect.

E. Nothing contained herein shall be deemed to modify or otherwise amend Landlord's obligations to perform the other components of the Landlord Premises Work (excluding the Restroom Work and the Backbone Work within the Expansion Premises) or the Landlord Non-Premises Work, all in accordance with the applicable terms and provisions of the Lease, as amended hereby.

F. Landlord has heretofore approved (i) with respect to that portion of the Premises located in the 8420 Building, those certain construction drawings prepared by Whitney Architects captioned "Interior

Renovation of Floors 4 through 9" and issued for construction on April 17, 2017, and (ii) with respect to that portion of the Premises located in the 8410 Building, those certain construction drawings prepared by Whitney Architects captioned "Partial Interior Renovation of Floors 1 through 11" and issued for construction on May 17, 2017 (collectively, the "Approved Plans"). True and correct copies of the coversheets for such Approved Plans are attached as Exhibit B hereto and incorporated herein.

10. **Other Terms.** All terms and conditions of the Lease now or hereafter in effect shall continue to apply to the Premises, except as expressly provided to the contrary herein. Capitalized terms not otherwise defined herein shall have the meaning specified therefor in the Lease.

11. **Full Force.** Except as expressly amended hereby, all terms and provisions of the Lease shall remain in full force and effect and are hereby ratified and confirmed.

12. **Real Estate Brokers.** Tenant represents and warrants to Landlord that Tenant has not dealt with any broker, agent, or finder in connection with this Amendment, other than Landlord's broker, Colliers Bennett & Kahnweiler LLC d/b/a Colliers International ("Colliers"), and Tenant agrees to indemnify, defend, and hold Landlord, Landlord's property manager, and their respective principals, partners, members, officers, employees, agents, contractors, affiliates, successors, and assigns harmless from and against any and all claims, damages, judgments, liens, proceedings, liabilities, costs, and expenses (including, without limitation, courts costs and reasonable attorneys' fees) arising from any claims or demands of any broker, agent, or finder, other than Colliers, with whom Tenant has dealt or is alleged to have dealt for any commission or fee due or alleged to be due in connection with this Amendment. Landlord represents and warrants to Tenant that Landlord has not dealt with any broker, agent, or finder in connection with this Amendment, other than Colliers, and Landlord agrees to indemnify, defend, and hold Tenant and Tenant's principals, partners, members, officers, employees, agents, contractors, affiliates, successors, and assigns harmless from and against any and all claims, damages, judgments, liens, proceedings, liabilities, costs, and expenses (including, without limitation, courts costs and reasonable attorneys' fees) arising from any claims or demands of any broker, agent, or finder, other than Colliers, with whom Landlord has dealt or is alleged to have dealt for any commission or fee due or alleged to be due in connection with this Amendment.

13. **Whole Amendment.** This Amendment sets forth the entire agreement between the parties with respect to the matters set forth herein. There have been no additional oral or written representations or agreements. In case of any inconsistency between the provisions of the Lease and this Amendment, the latter provisions shall govern and control. No inference in favor of or against any party should be drawn from the fact that such party drafted or participated in the drafting of this Amendment or that such provisions have been drafted on behalf of such party.

14. **Governing Law.** This Amendment shall be governed by and construed in accordance with the laws of the State of Illinois.

15. **Counterparts; Electronic Signatures.** This Amendment may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall be deemed and shall constitute a single, integrated original document. Electronic, digital, and facsimile signatures to this Amendment shall be binding on the parties hereto to the same extent as original signatures hereto so long as original signatures are delivered to the other party hereto promptly thereafter.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Amendment as of the Effective Date first above written.

**LANDLORD:**

FCA FUND CHICAGO II, LLC, a  
Delaware limited liability company

By: FCA-IV, LLC, a Delaware limited  
liability company, its sole member

By: FCA Partners, LLC, a North Carolina  
limited liability company, its manager

By: Edward M. Cherry  
Edward M. Cherry  
Manager

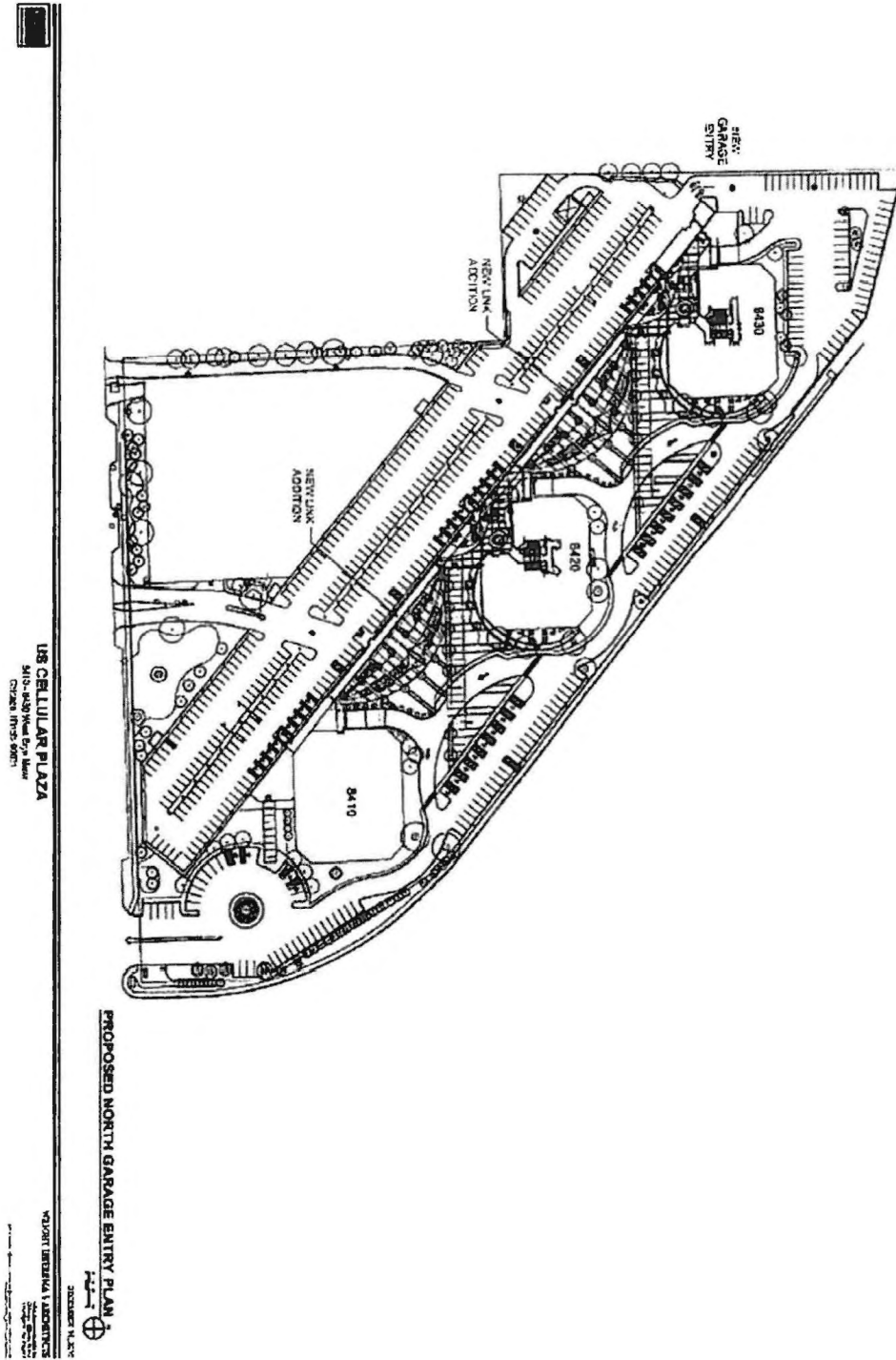
**TENANT:**

USCC SERVICES, LLC, a Delaware  
limited liability company

By: Stacy Campbell  
Name: STACY T. CAMPBELL  
Title: VIC PRESIDENT

EXHIBIT A

FIRST FLOOR LINK WORK SPECIFICATION







**US CELLULAR PLAZA**  
 1st-11th Floor  
 8410 W Bryn Mawr Ave  
 Chicago, Illinois

**Toilet Room Remodel  
 Revision to Permit 100701498  
 to revise Single User Toilet Rooms**

**882 Total Sq.Ft. of Work Revised**

SET/ISSUE DATES:  
 1. ISSUE FOR PERMIT 04.20.2017  
 2. REVISION TO PERMIT 100701498 07.31.2017

**US Cellular Plaza**  
 8410 W Bryn Mawr Ave  
 Chicago, IL  
 Toilet Room Remodel

**ARCHITECT**  
 [Seal and Signature]

**DATE**  
 09/18/2024

**SCALE**  
 AS SHOWN

**SECTION MARKING LEGEND**

[Symbol]	1st Floor	[Symbol]	2nd Floor
[Symbol]	3rd Floor	[Symbol]	4th Floor
[Symbol]	5th Floor	[Symbol]	6th Floor
[Symbol]	7th Floor	[Symbol]	8th Floor
[Symbol]	9th Floor	[Symbol]	10th Floor
[Symbol]	11th Floor	[Symbol]	12th Floor


**GENERAL SYMBOLS**

[Symbol]	Structural Grid	[Symbol]	Existing Wall
[Symbol]	Proposed Wall	[Symbol]	Existing Door
[Symbol]	Proposed Door	[Symbol]	Existing Window
[Symbol]	Proposed Window	[Symbol]	Existing Stair
[Symbol]	Proposed Stair	[Symbol]	Existing Elevation

**REVISIONS**

NO.	DESCRIPTION	DATE
1	ISSUE FOR PERMIT	04.20.2017
2	REVISION TO PERMIT	07.31.2017

US Cellular Plaza  
8410 W Bryn Mawr Ave  
Chicago, IL  
Toilet Room Remodel



Title: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Scale: \_\_\_\_\_  
 Drawing No.: \_\_\_\_\_  
 Project No.: \_\_\_\_\_  
 Revision: \_\_\_\_\_  
 A007


**DRAWING MATRIX**

NO.	DESCRIPTION	DATE	BY	CHECKED
1	PRELIMINARY			
2	REVISED			
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100	REVISED			

<p>           1. ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF CHICAGO SPECIFICATIONS AND THE IBC 2018 CODES.         </p> <p>           2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF CHICAGO.         </p> <p>           3. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AND UTILITIES AT ALL TIMES.         </p> <p>           4. THE CONTRACTOR SHALL PROTECT ALL EXISTING UTILITIES AND STRUCTURES.         </p> <p>           5. THE CONTRACTOR SHALL MAINTAIN A SAFE WORKING ENVIRONMENT AT ALL TIMES.         </p> <p>           6. THE CONTRACTOR SHALL MAINTAIN THE SITE IN A CLEAN AND ORDERLY MANNER.         </p> <p>           7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL ADJACENT PROPERTIES AND UTILITIES.         </p> <p>           8. THE CONTRACTOR SHALL MAINTAIN A SAFE WORKING ENVIRONMENT AT ALL TIMES.         </p> <p>           9. THE CONTRACTOR SHALL MAINTAIN THE SITE IN A CLEAN AND ORDERLY MANNER.         </p> <p>           10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL ADJACENT PROPERTIES AND UTILITIES.         </p>	<p>           11. THE CONTRACTOR SHALL MAINTAIN A SAFE WORKING ENVIRONMENT AT ALL TIMES.         </p> <p>           12. THE CONTRACTOR SHALL MAINTAIN THE SITE IN A CLEAN AND ORDERLY MANNER.         </p> <p>           13. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL ADJACENT PROPERTIES AND UTILITIES.         </p> <p>           14. THE CONTRACTOR SHALL MAINTAIN A SAFE WORKING ENVIRONMENT AT ALL TIMES.         </p> <p>           15. THE CONTRACTOR SHALL MAINTAIN THE SITE IN A CLEAN AND ORDERLY MANNER.         </p> <p>           16. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL ADJACENT PROPERTIES AND UTILITIES.         </p> <p>           17. THE CONTRACTOR SHALL MAINTAIN A SAFE WORKING ENVIRONMENT AT ALL TIMES.         </p> <p>           18. THE CONTRACTOR SHALL MAINTAIN THE SITE IN A CLEAN AND ORDERLY MANNER.         </p> <p>           19. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL ADJACENT PROPERTIES AND UTILITIES.         </p> <p>           20. THE CONTRACTOR SHALL MAINTAIN A SAFE WORKING ENVIRONMENT AT ALL TIMES.         </p> <p>           21. THE CONTRACTOR SHALL MAINTAIN THE SITE IN A CLEAN AND ORDERLY MANNER.         </p> <p>           22. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL ADJACENT PROPERTIES AND UTILITIES.         </p>
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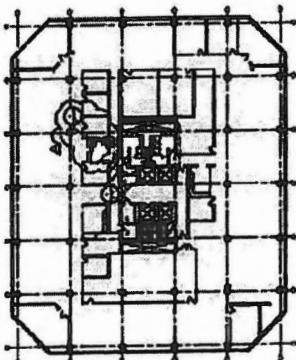
US Cellular Plaza  
8110 W Bryn Mawr Ave  
Chicago, IL  
Tower Room Remodel



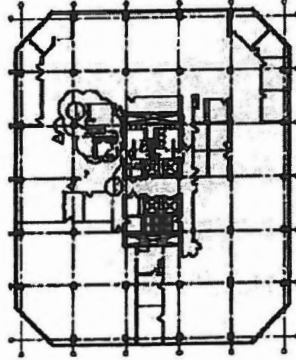
REVISIONS

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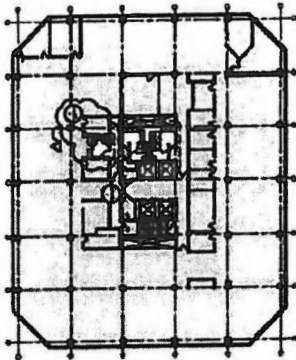
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TIME: 10:00 AM  
DRAWN BY: [Redacted]  
CHECKED BY: [Redacted]  
SCALE: AS SHOWN  
PROJECT NO: 16220  
SHEET NO: 100



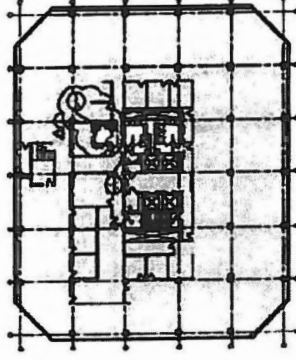
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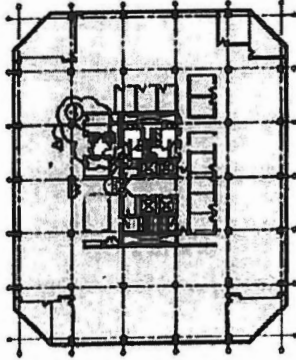
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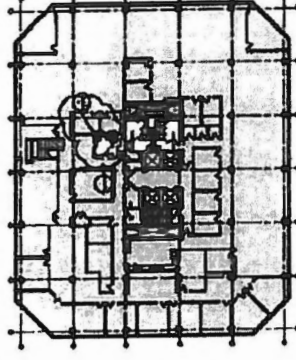
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4. INITIAL PROPOSED PLAN



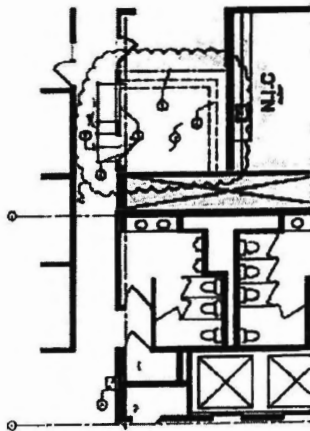
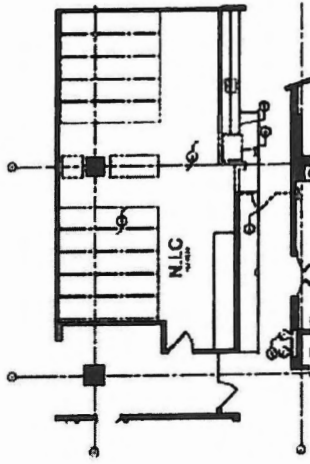
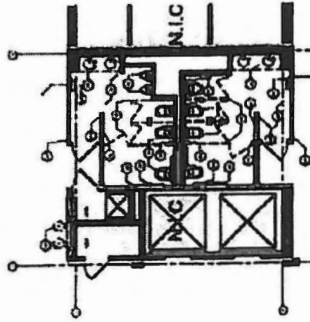
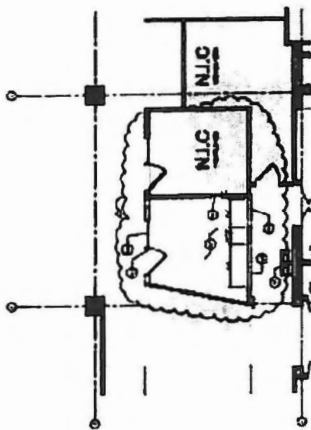
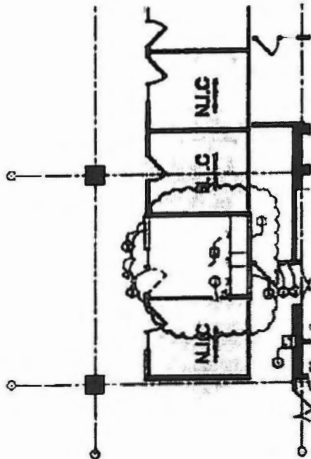
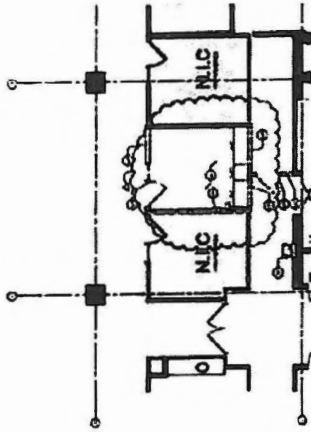
5. INITIAL PROPOSED PLAN



6. INITIAL PROPOSED PLAN

US Cellular Plaza  
8410 W Bryn Mawr Ave  
Chicago, IL  
Toilet Room Renovation

DATE: 09/18/2024  
PROJECT NO: 24000000000000000000  
DRAWING NO: 24000000000000000000  
SCALE: AS SHOWN  
SHEET NO: 1 OF 1



NAME	
EXPIRES	
NO. OF HOURS	
REMARKS	

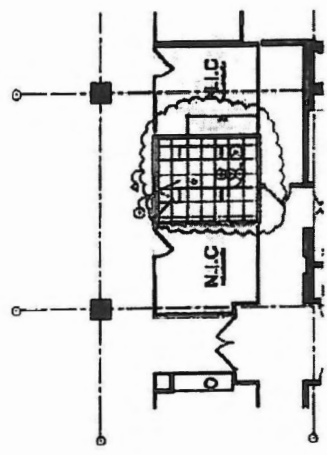
**NOTES**

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2024 IBC.
2. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2024 IBC.
3. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2024 IBC.
4. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2024 IBC.
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7. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2024 IBC.
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10. ALL WORK SHALL BE IN ACCORDANCE WITH THE 2024 IBC.

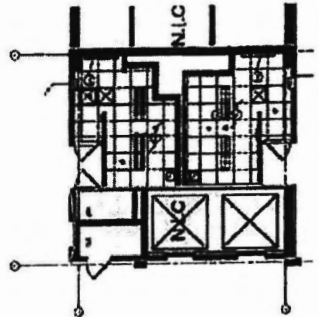
DATE	
BY	
CHECKED	
APPROVED	
SCALE	
SHEET NO.	
TOTAL SHEETS	



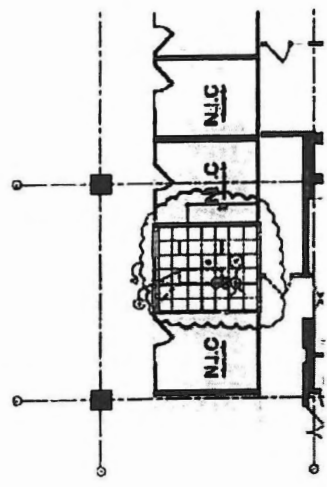
US Cellular Plaza  
 8410 W Bryn Mawr Ave  
 Chicago, IL  
 Toilet Room Remodel



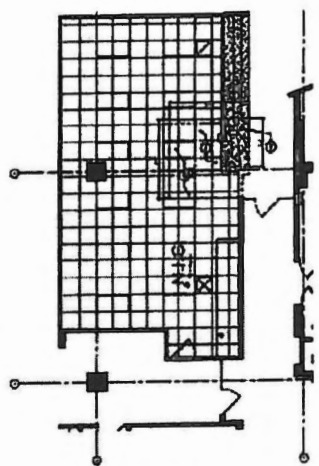
1. FLOOR PLAN - TOILET ROOM



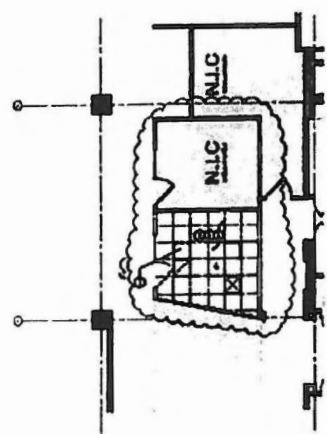
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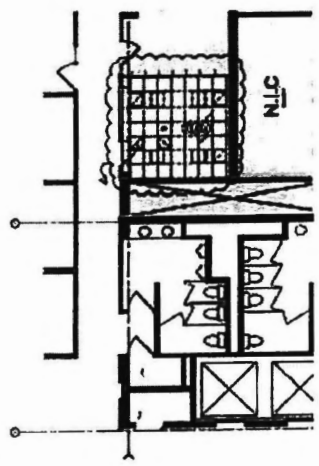
3. FLOOR PLAN - TOILET ROOM



4. FLOOR PLAN - TOILET ROOM

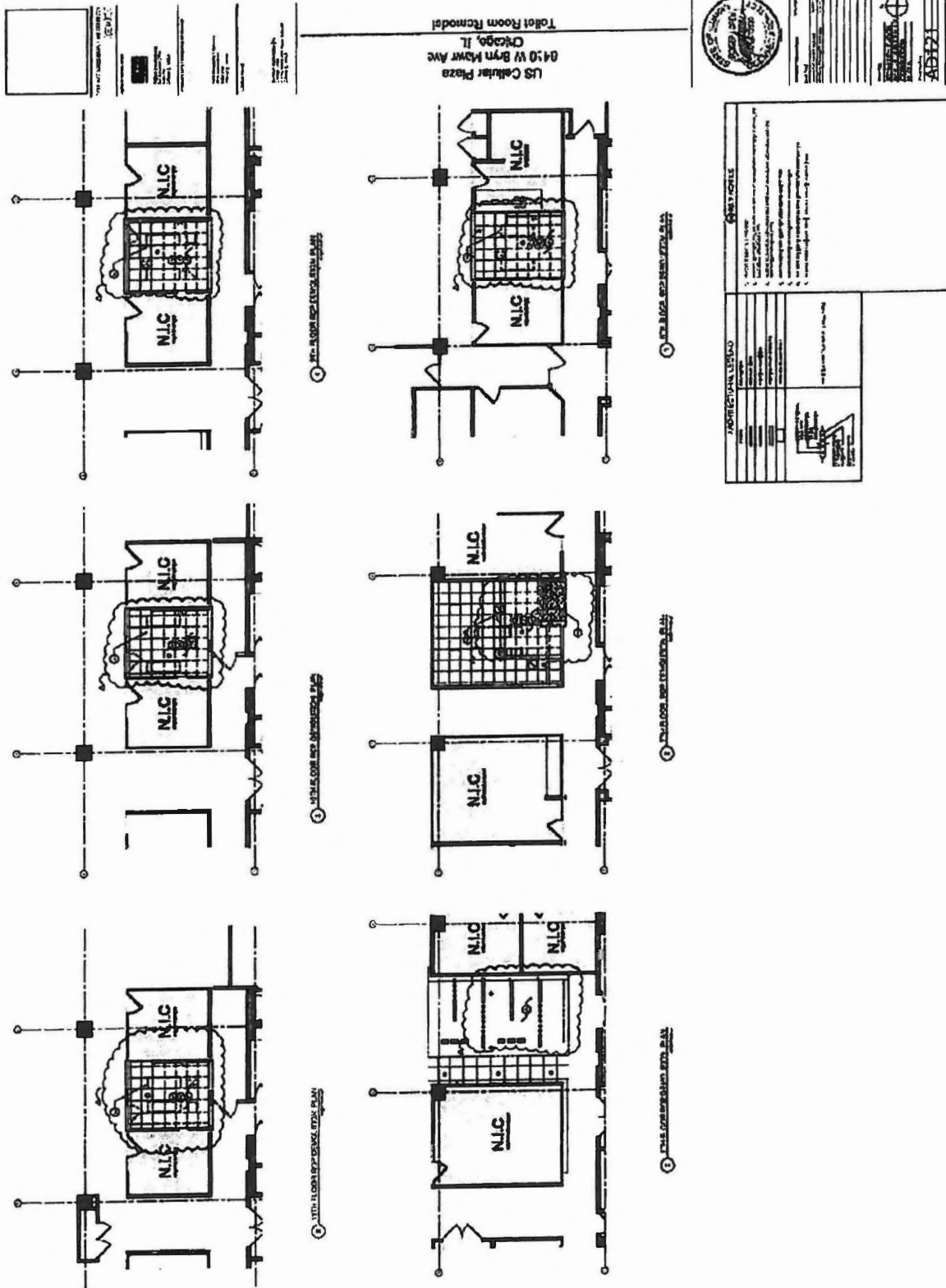


5. FLOOR PLAN - TOILET ROOM



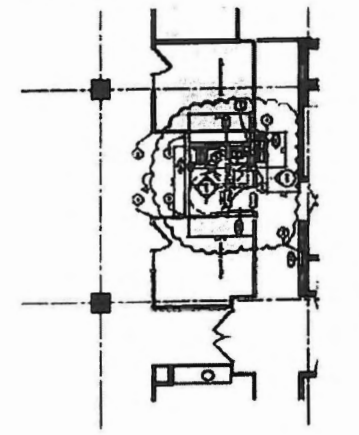
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ARCHITECTURAL LEGEND	
1	TOILET ROOM
2	TOILET ROOM
3	TOILET ROOM
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6	TOILET ROOM
7	TOILET ROOM
8	TOILET ROOM

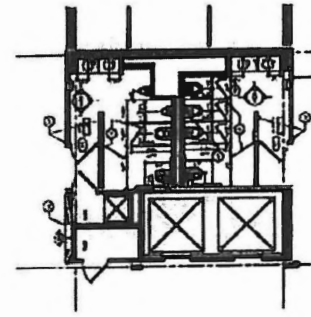


US Cellular Plaza  
8130 W Bryn Mawr Ave  
Chicago, IL  
Toilet Room Remodel

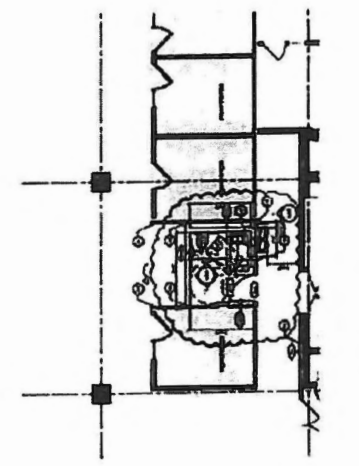
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PROJECT: US Cellular Plaza  
DRAWN BY: [Redacted]  
CHECKED BY: [Redacted]  
SCALE: AS SHOWN  
SHEET NO. 1 OF 1



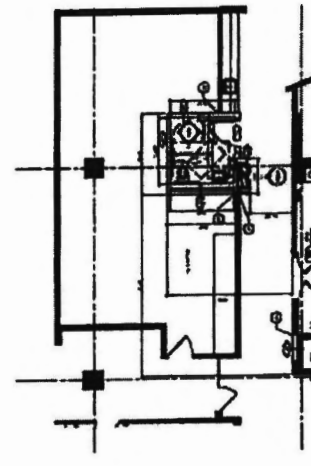
1. TOILET ROOM PLAN



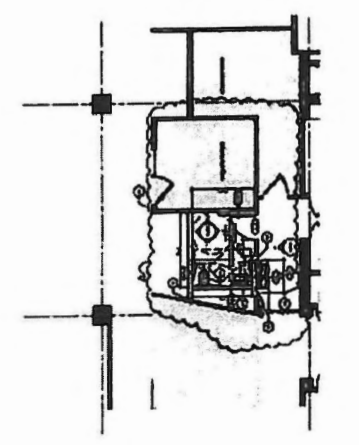
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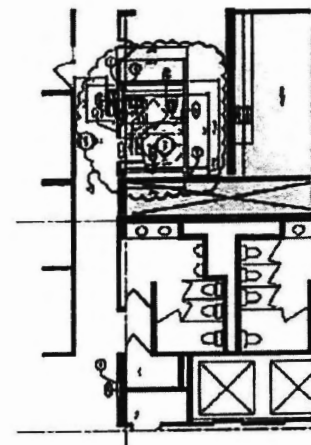
3. TOILET ROOM PLAN



4. MECHANICAL PLAN



5. TOILET ROOM PLAN

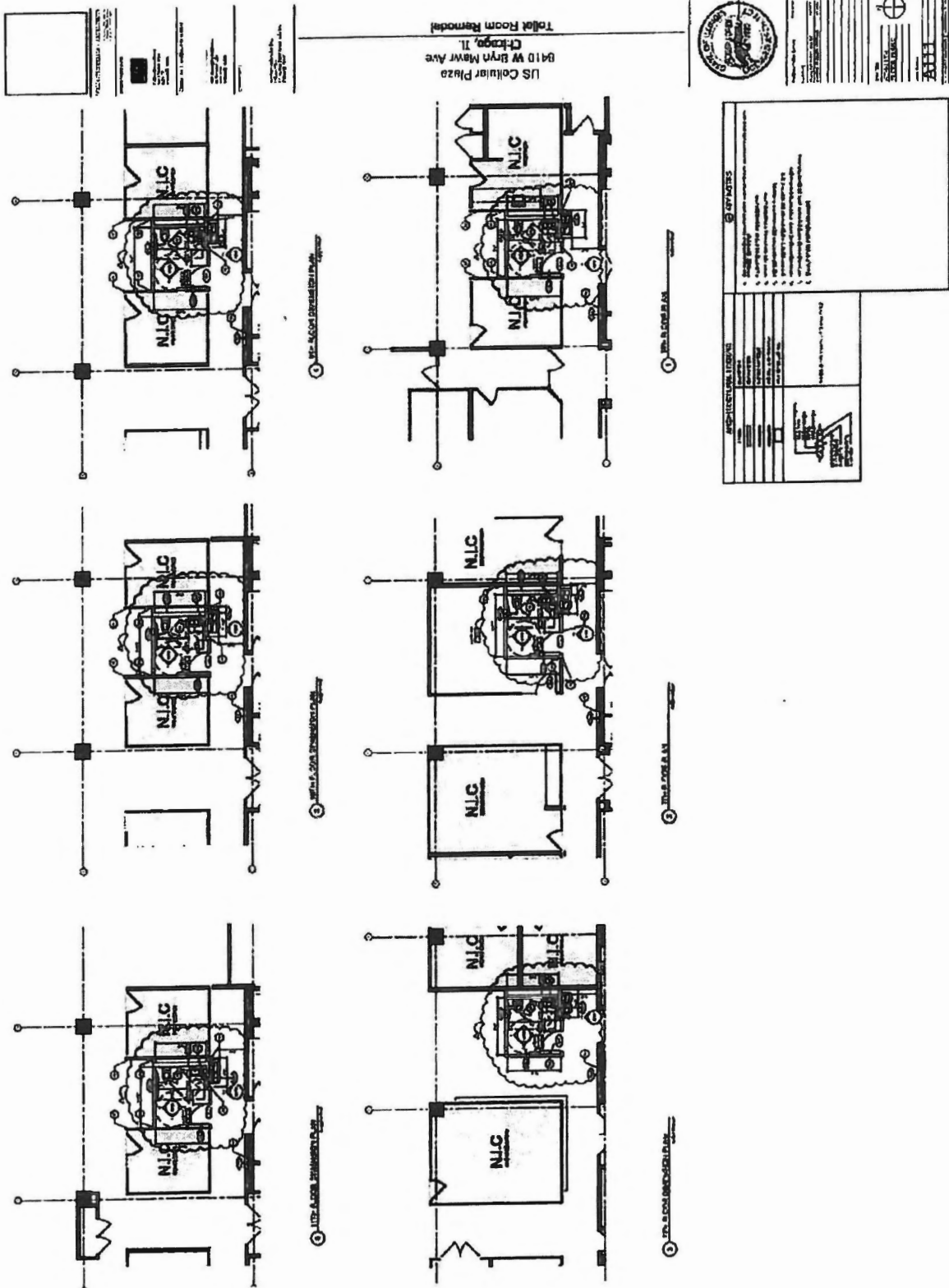


6. MECHANICAL PLAN

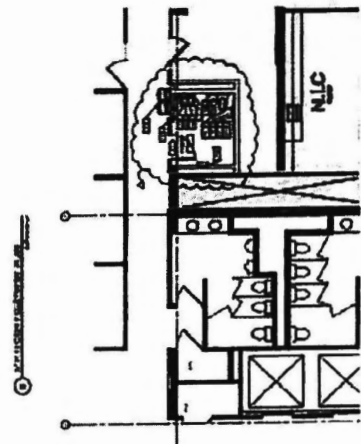
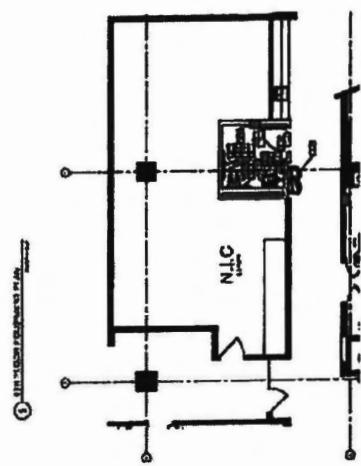
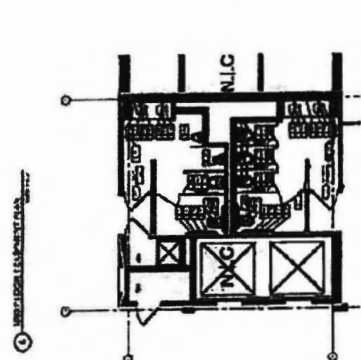
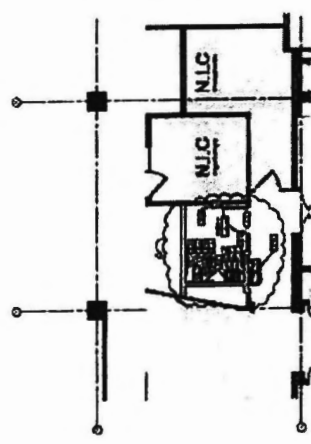
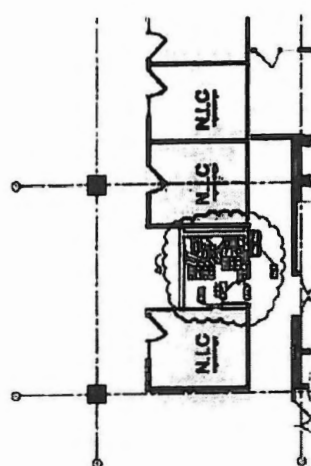
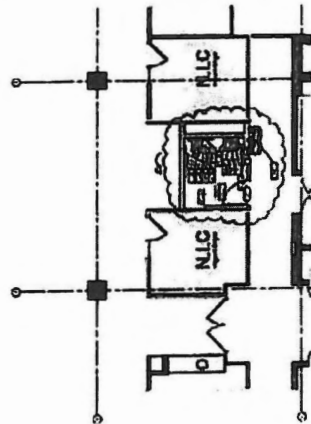
REVISIONS	
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PROJECT NO.	043110
DATE	09/18/2024
DRAWN BY	[Redacted]
CHECKED BY	[Redacted]
SCALE	AS SHOWN
SHEET NO.	1 OF 1



US Cellular Plaza  
8430 W Bryn Mawr Ave  
Chicago, IL  
Tollon Room Remodel



1. TOLLON ROOM REMODEL PLAN

2. TOLLON ROOM REMODEL PLAN

3. TOLLON ROOM REMODEL PLAN

US Cellular Plaza  
8430 W Bryn Mawr Ave  
Chicago, IL  
Tollon Room Remodel

ACCESSORY SCHEDULE

NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
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PLUMBING SCHEDULE

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US Cellular Plaza  
8430 W Bryn Mawr Ave  
Chicago, IL  
Tollon Room Remodel

US Cellular Plaza  
8410 W Bryn Mawr Ave  
Chicago, IL  
Toilet Room Remodel

① PLUMBING SCHEDULE  
② ELECTRICAL SCHEDULE  
③ LEGEND

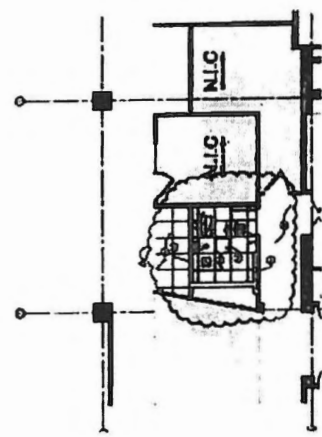
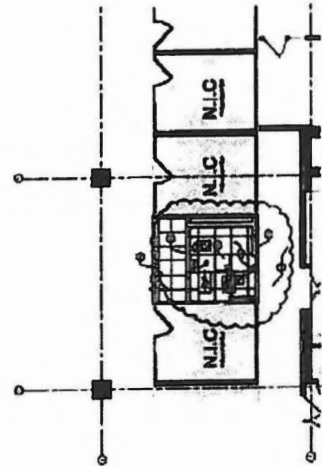
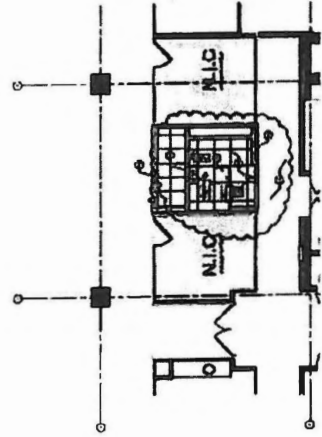
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NO.	DESCRIPTION	QTY	UNIT	NO.	DESCRIPTION	QTY	UNIT
1	1/2" x 1/2" CPVC DWV	100	FT	1	120V 15A BRK	1	PCB
2	1/2" x 1/2" CPVC DWV	50	FT	2	120V 20A BRK	1	PCB
3	1/2" x 1/2" CPVC DWV	25	FT	3	120V 30A BRK	1	PCB
4	1/2" x 1/2" CPVC DWV	10	FT	4	120V 40A BRK	1	PCB
5	1/2" x 1/2" CPVC DWV	5	FT	5	120V 50A BRK	1	PCB
6	1/2" x 1/2" CPVC DWV	2	FT	6	120V 60A BRK	1	PCB
7	1/2" x 1/2" CPVC DWV	1	FT	7	120V 70A BRK	1	PCB
8	1/2" x 1/2" CPVC DWV	0.5	FT	8	120V 80A BRK	1	PCB
9	1/2" x 1/2" CPVC DWV	0.2	FT	9	120V 90A BRK	1	PCB
10	1/2" x 1/2" CPVC DWV	0.1	FT	10	120V 100A BRK	1	PCB

④ LEGEND

① PLUMBING SCHEDULE  
② ELECTRICAL SCHEDULE  
③ LEGEND



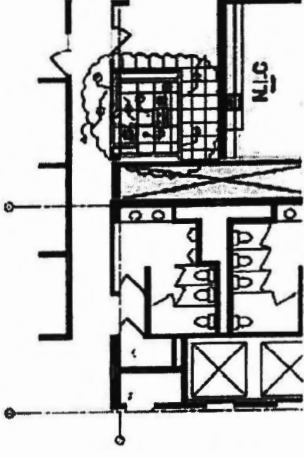
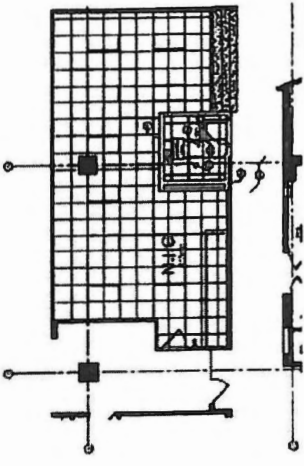
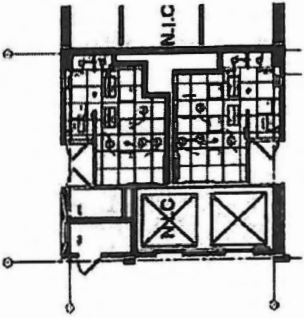
US Cellular Plaza  
 8410 W Bryn Mawr Ave  
 Chicago, IL  
 Toilet Room Remodel



1. TOILET ROOM REMODEL - GENERAL LAYOUT

2. TOILET ROOM REMODEL - SHOWER AREA

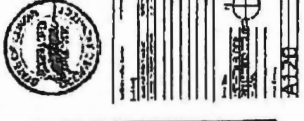
3. TOILET ROOM REMODEL - SINK AND VANITY



4. TOILET ROOM REMODEL - SHOWER AREA

5. TOILET ROOM REMODEL - SHOWER AREA

6. TOILET ROOM REMODEL - SHOWER AREA



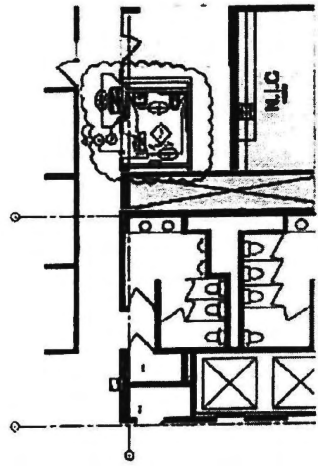
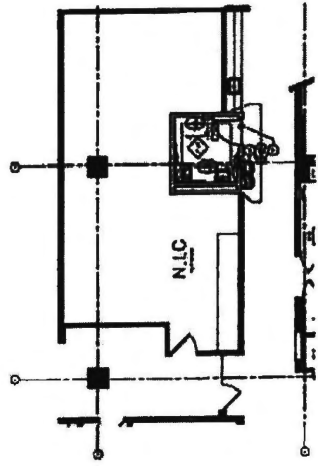
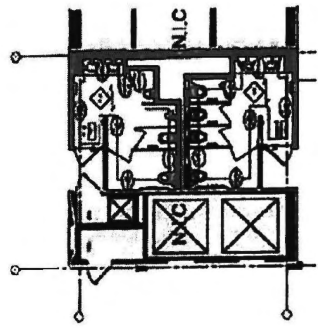
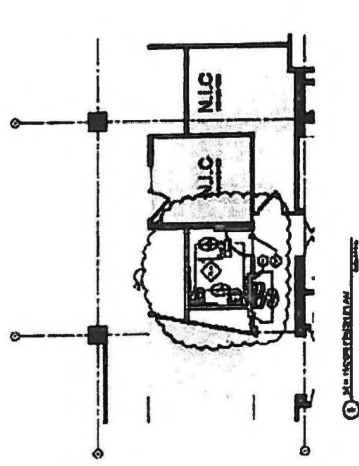
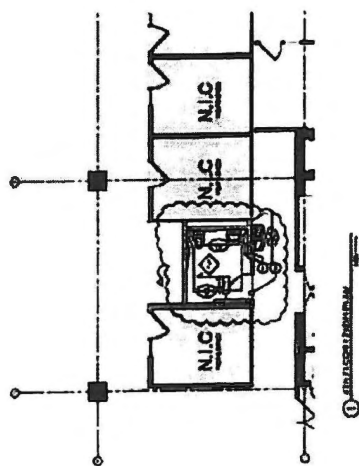
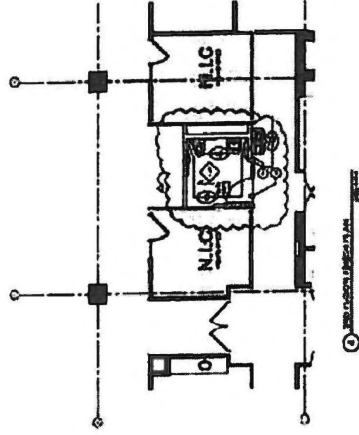
REPAIRS TO CITY AND LIGHTING SCHEMATIC											
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GENERAL NOTES	
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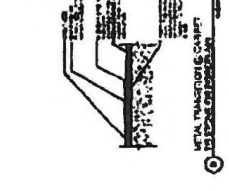
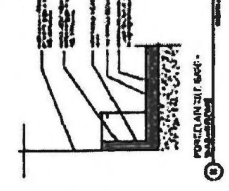
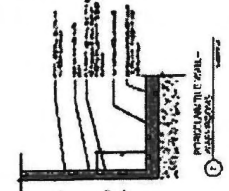


US Cellular Plaza  
8410 W Bryn Mawr Ave  
Chicago, IL  
Tower Room Remodel

DATE: 09/18/2024  
PROJECT: Tower Room Remodel  
DRAWN BY: [Name]  
CHECKED BY: [Name]  
SCALE: AS SHOWN

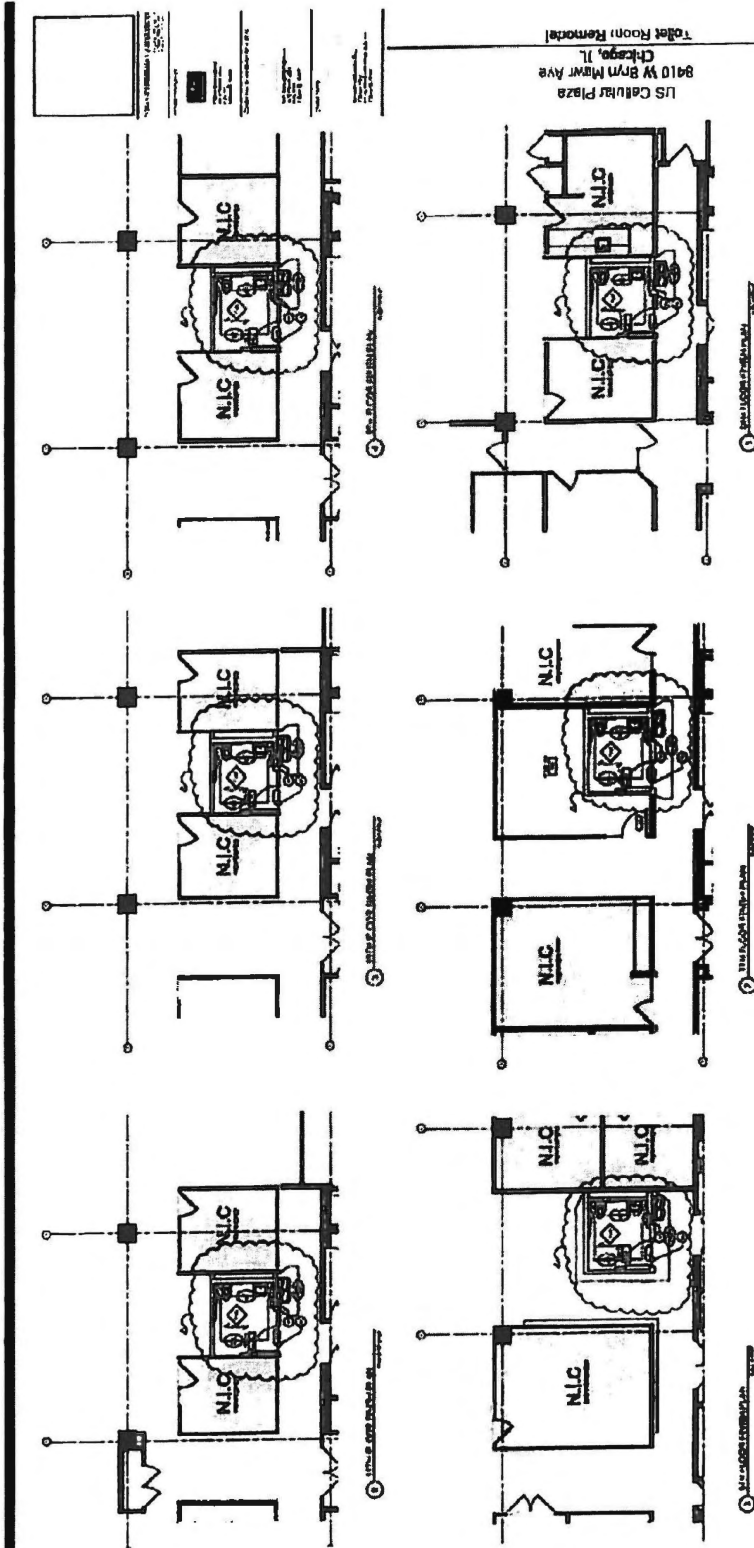


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US Cellular  
8410 W Bryn Mawr Ave  
Chicago, IL  
Tower Room Remodel


DATE: 09/18/2024  
PROJECT: Tower Room Remodel  
DRAWN BY: [Name]  
CHECKED BY: [Name]  
SCALE: AS SHOWN



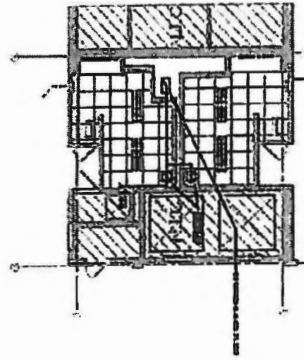
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US Cellular Plaza  
3419 W Bryn Mawr Ave  
Chicago, IL  
Toilet Room Remodel



DATE: \_\_\_\_\_  
 DRAWN BY: \_\_\_\_\_  
 CHECKED BY: \_\_\_\_\_  
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NOTES:

1. SEE SHEET 101 FOR GENERAL NOTES.
2. ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF CHICAGO SPECIFICATIONS.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS.
4. PROTECT ALL EXISTING UTILITIES AND STRUCTURES.
5. MAINTAIN ACCESS TO ADJACENT AREAS AT ALL TIMES.
6. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S WEATHER ENVELOPE.
7. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION.
8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DISPOSING OF ALL DEBRIS.
9. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S CURB CUT.
10. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S SIGNAGE.
11. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S SECURITY.
12. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S SAFETY.
13. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S HYGIENE.
14. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S AIR QUALITY.
15. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S SOUND LEVELS.
16. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S VIBRATION LEVELS.
17. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S TEMPERATURE.
18. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S HUMIDITY.
19. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S LIGHTING.
20. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S SOUND SYSTEM.
21. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S TELEPHONE SYSTEM.
22. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S DATA SYSTEM.
23. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S FIRE ALARM SYSTEM.
24. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S SMOKE DETECTOR SYSTEM.
25. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S GAS DETECTOR SYSTEM.
26. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S SECURITY SYSTEM.
27. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S ACCESS CONTROL SYSTEM.
28. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S VIDEO SURVEILLANCE SYSTEM.
29. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S INTERCOM SYSTEM.
30. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S PA SYSTEM.
31. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S PUBLIC ADDRESS SYSTEM.
32. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S MUSIC SYSTEM.
33. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S BROADCAST SYSTEM.
34. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S RECORDING SYSTEM.
35. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S TRANSMISSION SYSTEM.
36. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S RECEIVING SYSTEM.
37. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S ANTENNA SYSTEM.
38. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S CABLE SYSTEM.
39. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S OPTICAL FIBER SYSTEM.
40. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S NETWORK SYSTEM.
41. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S SERVER SYSTEM.
42. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S STORAGE SYSTEM.
43. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S BACKUP SYSTEM.
44. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S RECOVERY SYSTEM.
45. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S DISASTER RECOVERY SYSTEM.
46. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S BUSINESS CONTINUITY SYSTEM.
47. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S CRISIS MANAGEMENT SYSTEM.
48. THE CONTRACTOR SHALL MAINTAIN THE BUILDING'S INCIDENT RESPONSE SYSTEM.
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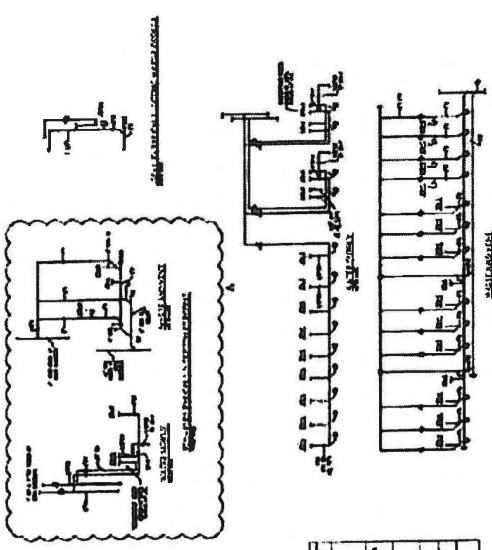
US Cellular Plaza  
8410 W Bryn Mawr Ave  
Chicago, IL  
Toilet Room Remodel

The image contains architectural drawings for a toilet room remodel. At the top, there is a title block with the project name 'US Cellular Plaza', address '8410 W Bryn Mawr Ave, Chicago, IL', and the specific task 'Toilet Room Remodel'. Below the title block are two sets of drawings. The upper set consists of three floor plan views of the toilet room, showing the layout of the fixtures and the grid lines. The lower set consists of three elevation views of the toilet room, showing the wall and ceiling details. To the right of the drawings is a vertical list of specifications and notes, including a circular logo at the top. The drawings are detailed, showing grid lines, dimensions, and material callouts.

L.S. Colular Plazo  
 8410 W Bryn Mawr Ave  
 Chicago, IL  
 Tablet Room Remodel

PROJECT NO. 2024-00000  
 SHEET NO. 101

DATE: 09/18/2024  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]

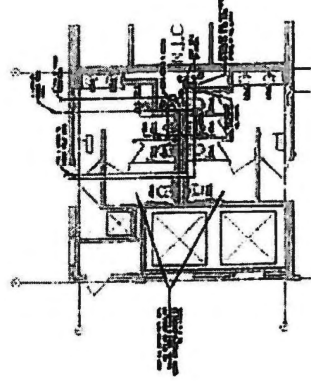
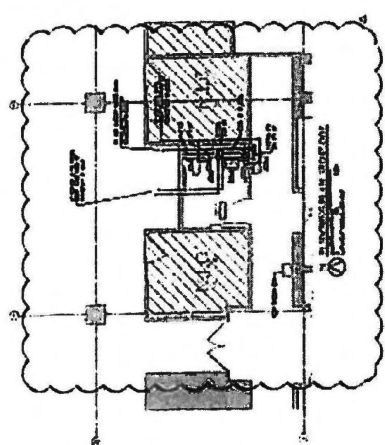


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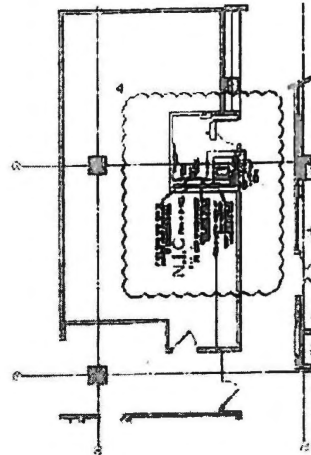
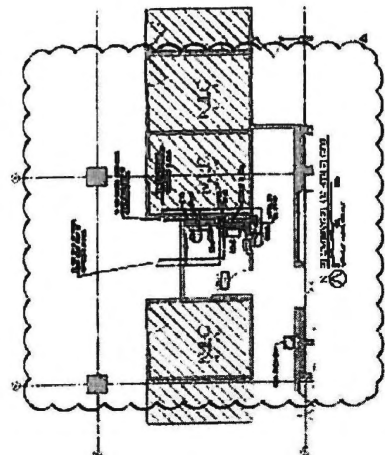
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US Cellular Plaza  
 8410 W Bryn Mawr Ave  
 Chicago, IL  
 Toilet Room Remodel

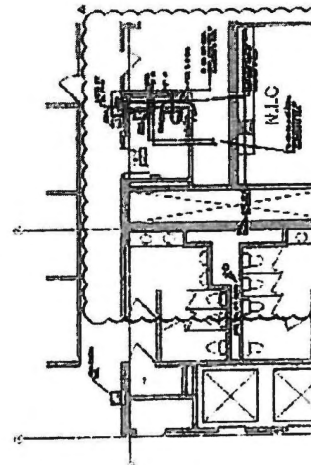
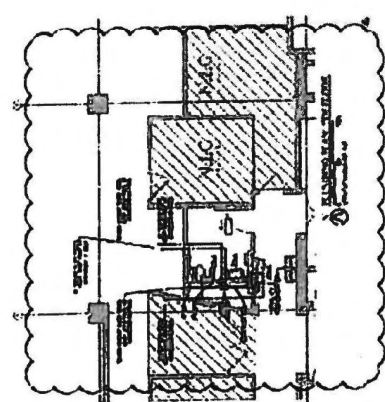


1. EXISTING TOILET ROOM FLOOR PLAN  
 2. PROPOSED TOILET ROOM FLOOR PLAN



**NOTES**  
 1. SEE ALL NOTES ON DRAWING SET  
 2. ALL WORK TO BE IN ACCORDANCE WITH THE CITY OF CHICAGO CODES AND ORDINANCES  
 3. ALL WORK TO BE IN ACCORDANCE WITH THE IBC AND IBCS  
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1. EXISTING TOILET ROOM FLOOR PLAN  
 2. PROPOSED TOILET ROOM FLOOR PLAN



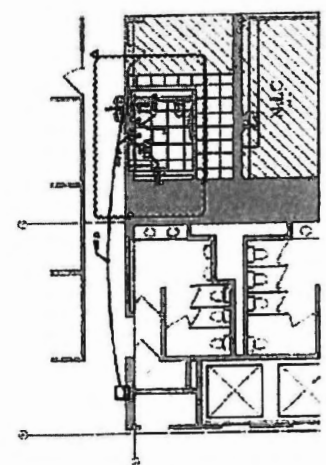
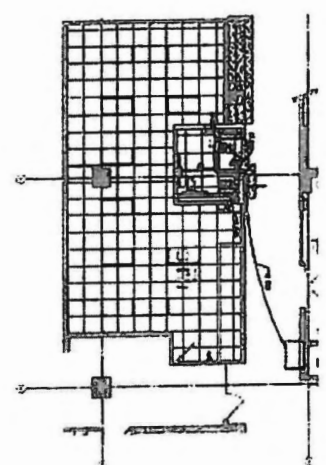
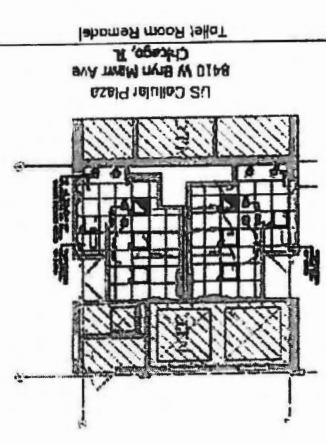
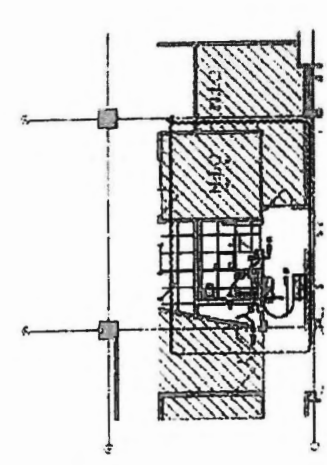
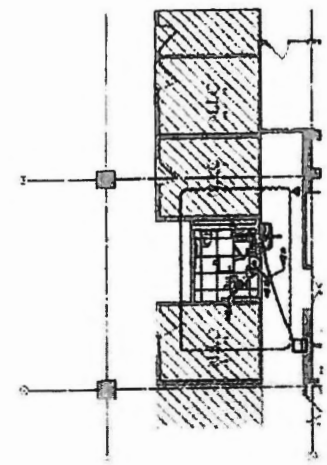
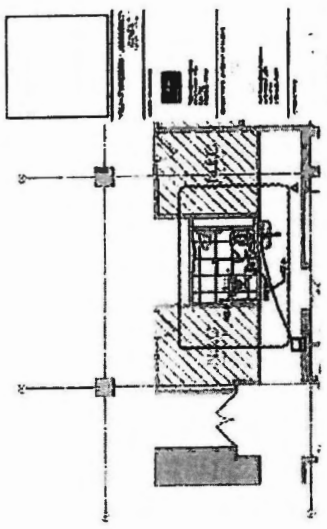
1. EXISTING TOILET ROOM FLOOR PLAN  
 2. PROPOSED TOILET ROOM FLOOR PLAN

US Cellular Plaza  
6410 W Bryn Mawr Ave  
Chicago, IL

Tollet Room Remodel

The drawings include three sets of floor plans and elevations, each labeled with a room number: 101, 102, and 103. Each set shows the layout of the room, including the toilet, sink, and vanity. A legend box is located in the center, providing details for the materials and finishes used in the remodel. The legend includes items such as 'TOILET ROOM WALL', 'TOILET ROOM FLOOR', 'TOILET ROOM CEILING', 'TOILET ROOM DOOR', 'TOILET ROOM WINDOW', 'TOILET ROOM CABINET', 'TOILET ROOM SINK', 'TOILET ROOM TOILET', 'TOILET ROOM VANITY', 'TOILET ROOM MIRROR', 'TOILET ROOM LIGHTING', 'TOILET ROOM ACCESSORIES', and 'TOILET ROOM FINISHES'. The drawings are oriented vertically on the page.





US Cellular Plaza  
8410 W Bryn Mawr Ave  
Chicago, IL  
Toilet Room Remodel

Professional Engineer Seal and Registration Information

Professional Engineer Seal: [Seal]

Registration Information:  
 License No. [ ]  
 State of Illinois  
 Expiration Date [ ]  
 License Type [ ]

- 1. All work shall be in accordance with the City of Chicago Building Code, 2012 Edition, as amended.
- 2. All work shall be in accordance with the City of Chicago Plumbing Code, 2012 Edition, as amended.
- 3. All work shall be in accordance with the City of Chicago Electrical Code, 2012 Edition, as amended.
- 4. All work shall be in accordance with the City of Chicago Mechanical Code, 2012 Edition, as amended.
- 5. All work shall be in accordance with the City of Chicago Fire Code, 2012 Edition, as amended.
- 6. All work shall be in accordance with the City of Chicago Safety Code, 2012 Edition, as amended.
- 7. All work shall be in accordance with the City of Chicago Health Code, 2012 Edition, as amended.
- 8. All work shall be in accordance with the City of Chicago Environmental Code, 2012 Edition, as amended.
- 9. All work shall be in accordance with the City of Chicago Administrative Code, 2012 Edition, as amended.
- 10. All work shall be in accordance with the City of Chicago Zoning Code, 2012 Edition, as amended.







US Cellular Plaza  
8410 W Bryn Mawr Ave  
Chicago, IL  
Tollkit Room Remodel

The image contains architectural drawings for a 'Tollkit Room Remodel' at US Cellular Plaza, 8410 W Bryn Mawr Ave, Chicago, IL. The drawings are organized into two main columns. The left column shows three elevation views of a kiosk structure, each with a grid-patterned window. The right column shows three corresponding section views of the kiosk, illustrating its depth and internal components. Each drawing is accompanied by a circular callout symbol and a reference to a specific drawing sheet. At the top right, there is a circular logo and a table with project information. At the bottom left, there is a small rectangular detail drawing.

Project Name	US Cellular Plaza
Address	8410 W Bryn Mawr Ave
City	Chicago, IL
Client	
Architect	
Scale	
Date	
Drawn By	
Checked By	
Approved By	

*Exhibit "B".*  
(To Sublease Agreement)

*Rider.*

*City Requirements.*

1. Conflict of Interest and Governmental Ethics.

(a) Conflict of Interest. No official or employee of the City of Chicago, nor any member of any board, commission or agency of the City of Chicago, shall have any financial interest (as defined in Chapter 2-156 of the Municipal Code), either direct or indirect, in the Premises; nor shall any such official, employee, or member participate in making or in any way attempt to use his or her position to influence any City governmental decision or action with respect to this Lease.

(b) Duty to Comply with Governmental Ethics Ordinance. The City and Landlord shall comply with Chapter 2-156 of the Municipal Code, "Governmental Ethics," including but not limited to section 2-156-120, which states that no payment, gratuity, or offer of employment shall be made in connection with any City of Chicago contract as an inducement for the award of that contract or order. Any contract negotiated, entered into, or performed in violation of any of the provisions of Chapter 2-156 shall be voidable as to the City of Chicago.

2. Business Relationships. Landlord acknowledges (a) receipt of a copy of Section 2-156-030 (b) of the Municipal Code, (b) that it 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 described in Section 2-156-080 of the Municipal Code), 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) notwithstanding anything to the contrary contained in this Lease, 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 Lease shall be grounds for termination of this Lease and the transactions contemplated hereby. Landlord hereby represents and warrants that no violation of Section 2-145-030 (b) has occurred with respect to this Lease or the transactions contemplated hereby.

3. Patriot Act Certification. Landlord represents and warrants that neither Landlord nor any Affiliate (as hereafter defined) thereof 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 Laws: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. As used in this Section, an "Affiliate" shall be deemed to be a person or entity related to Landlord that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with Landlord, 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.

4. Prohibition on Certain Contributions-Mayoral Executive Order No. 2011-4. Landlord agrees that Landlord, any person or entity who directly or indirectly has an ownership or beneficial interest in Landlord of more than 7.5 percent ("Owners"), spouses and domestic partners of such Owners, Landlord's contractors (i.e., any person or entity in direct contractual privity with Landlord regarding the subject matter of this Lease) ("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 (Landlord 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 the Mayor's political fundraising committee (a) after execution of this Lease by Landlord, (b) while this Lease or any Other Contract (as hereinafter defined) is executory, (c) during the Term of this Lease or any Other Contract, or (d) during any period while an extension of this Lease or any Other Contract is being sought or negotiated. This provision shall not apply to contributions made prior to May 16, 2011, the effective date of Executive Order 2011-4.

Landlord represents and warrants that from the later of (a) May 16, 2011, or (b) the date the City approached Landlord, or the date Landlord approached the City, as applicable, regarding the formulation of this Lease, no Identified Parties have made a contribution of any amount to the Mayor or to the Mayor's political fundraising committee.

Landlord 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 the Mayor's political fundraising committee.

Landlord agrees that the Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

Notwithstanding anything to the contrary contained herein, Landlord agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this Lease or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Lease, 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 Lease, and under any Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Landlord intentionally violates this provision or Mayoral Executive Order No. 2011-4 prior to the execution of this Lease, the City may elect to decline to execute this Lease.

For purposes of this provision:

- (a) "Bundle" means to collect contributions from more than one source, which contributions are then delivered by one person to the Mayor or

to his political fundraising committee.

(b) "Other Contract" means any other agreement with the City to which Landlord is a party that is (i) formed under the authority of Chapter 2-92 of the Municipal Code; (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.

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

(d) Individuals are "domestic partners" if they satisfy the following criteria:

- (i) they are each other's sole domestic partner, responsible for each other's common welfare; and
- (ii) neither party is married; and
- (iii) the partners are not related by blood closer than would bar marriage in the State of Illinois; and
- (iv) 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
- (v) 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) 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

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

5. Waste Ordinance Provisions. In accordance with Section 11-4-1600(e) of the Municipal Code, Landlord warrants and represents that it, and to the best of its knowledge, its contractors and subcontractors, have not violated and are not in violation of any provisions of Section 7-28 or Section 11-4 of the Municipal Code (the "Waste Sections"). During the period while this Lease is executory, Landlord's, any general contractor's or any subcontractor's violation

of the Waste Sections, whether or not relating to the performance of this Lease, constitutes a breach of and an event of default under this Lease, for which the opportunity to cure, if curable, will be granted only at the sole designation of the Chief Procurement Officer. Such breach and default entitles the City to all remedies under the Lease, at law or in equity. This section does not limit Landlord's, general contractor's and its subcontractors' duty to comply with all applicable federal, state, county and municipal laws, statutes, ordinances and executive orders, in effect now or later, and whether or not they appear in this Lease. Non-compliance with these terms and conditions may be used by the City as grounds for the termination of this Lease, and may further affect Landlord's eligibility for future contract awards.

6. Failure to Maintain Eligibility to Do Business with the City. Failure by Landlord or any controlling person (as defined in Section 1-23-010 of the Municipal Code) thereof to maintain eligibility to do business with the City of Chicago as required by Section 1-23-030 of the Municipal Code shall be grounds for termination of this Lease and the transactions contemplated thereby. Landlord shall at all times comply with Section 2-154-020 of the Municipal Code.

7. Cooperation with Office of Inspector General. It is the duty of Landlord and any bidder, proposer, contractor, subcontractor, and every applicant for certification of eligibility for a City contract or program, and all officers, directors, agents, partners, and employees of any such grantee, subgrantee, bidder, proposer, contractor, subcontractor or such applicant to cooperate with the Inspector General in any investigation or hearing undertaken pursuant to Chapter 2-56 of the Municipal Code. Landlord represents and warrants that it understands and will abide by all provisions of Chapter 2-56 of the Municipal Code and that Landlord will inform its Contractors and Subcontractors of this provision and require their compliance.

8. 2014 Hiring Plan Prohibitions.

- (a) The City is subject to the June 16, 2014 "City of Chicago Hiring Plan", as amended (the "2014 City Hiring Plan") entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United States District Court for the Northern District of Illinois). Among other things, the 2014 City Hiring Plan prohibits the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.
- (b) Landlord is aware that City policy prohibits City employees from directing any individual to apply for a position with Landlord, either as an employee or as a subcontractor, and from directing Landlord to hire any individual as an employee or as a subcontractor. Accordingly, Landlord must follow its own hiring and contracting procedures, without being influenced by the City or City employees. Any and all personnel

provided by Landlord under this Lease are employees or subcontractors of Landlord, not employees of the City. This Lease is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by Landlord.

- (c) Landlord will not condition, base, or knowingly prejudice or affect any term or aspect of the employment of any personnel provided under this Lease, or offer employment to any individual to provide services under -this Lease, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership in a political organization or party, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Lease, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.
  
- (d) In the event of any communication to Landlord by a City employee or City official in violation of paragraph (ii) above, or advocating a violation of paragraph (iii) above, Landlord will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General ("OIG Hiring Oversight"), and also to the head of the relevant City department utilizing services provided under this Lease. Landlord will also cooperate with any inquiries by OIG Hiring Oversight.

This Bill of Sale Assignment is executed as of the date hereof by **USCC SERVICES, LLC**, a Delaware limited liability company ("Seller"), and in favor of the **CITY OF CHICAGO**, a municipal corporate and home rule unit of government organized and existing under Article VII, Section 1 and 6(a), respectively, of the 1970 Constitution of the State of Illinois ("Buyer"). Seller, as sublandlord, and Buyer, as subtenant, are parties to that certain Sublease Agreement, dated \_\_\_\_\_, 2024 (the "Sublease").

1. **Conveyance.** For good and valuable consideration, in the amount of \$1.00, and pursuant to Section 6.2 of the Sublease, Seller hereby irrevocably sells, assigns, transfers, conveys, grants, bargains and delivers to Buyer all right, title and interest, legal and equitable, in and to the Furniture (as defined in the Sublease) in AS IS, WHERE IS condition. Seller represents and warrants that it is the owner of the Furniture and the Furniture is free and clear of all liens, charges, and encumbrances.
  
2. **Disclaimer of Warranties.** EXCEPT AS AFORESAID, SELLER MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER WITH RESPECT TO THE FURNITURE, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; OR (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE E. BY ACCEPTING THIS BILL OF SALE, BUYER ACKNOWLEDGES THAT IT HAS NOT RELIED ON ANY REPRESENTATION OR WARRANTY MADE BY SELLER, OR ANY OTHER PERSON ON SELLER'S BEHALF, OTHER THAN AS EXPRESSLY PROVIDED FOR HEREIN.
  
3. **Governing Law.** This Bill of Sale is governed by, and construed in accordance with, the laws of the State of Illinois without regard to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Illinois.

IN WITNESS WHEREOF, Seller has executed and delivered this Bill of Sale Assignment to Buyer as of \_\_\_\_\_, 202\_

**SELLER:**

**USCC SERVICES, LLC**, a Delaware limited liability company

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

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

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

# OFFICE LEASE AGREEMENT

BETWEEN

LANDLORD: **FCA FUND CHICAGO II, LLC,**  
A DELAWARE LIMITED LIABILITY COMPANY

and

TENANT: **CITY OF CHICAGO,**  
A MUNICIPAL CORPORATION AND HOME RULE UNIT  
OF LOCAL GOVERNMENT ORGANIZED AND EXISTING UNDER  
ARTICLE VII, SECTIONS 1 AND 6(A), RESPECTIVELY, OF  
THE 1970 CONSTITUTION OF THE STATE OF ILLINOIS

DATED: SEPTEMBER \_\_, 2024  
("EFFECTIVE DATE")

**BASIC LEASE PROVISIONS**

The following sets forth some of the Basic Provisions of the Lease (as hereinafter defined). In the event of any conflict between the terms of these Basic Lease Provisions and the referenced Sections of the Lease, the referenced Sections of the Lease shall control. In addition to the following Basic Lease Provisions, all of the other terms, provisions, covenants, and conditions of the Lease hereinafter set forth are hereby incorporated as an integral part of these Basic Lease Provisions.

1. **Building (See Section 1):** U.S. Cellular Plaza  
8420 West Bryn Mawr Avenue  
Chicago, Illinois
2. **Project (See Section 1):** U.S. Cellular Plaza, consisting of the following:  
(i) the building commonly known as 8410 West Bryn Mawr Avenue; (ii) the building commonly known as 8420 West Bryn Mawr Avenue; and (iii) the building commonly known as 8430 West Bryn Mawr Avenue (collectively, the "Project")
3. **Premises (See Section 1):**  
Suites: 500, 600, 700, 800, and 900  
Floor: Fifth (5<sup>th</sup>), Sixth (6<sup>th</sup>), Seventh (7<sup>th</sup>), Eighth (8<sup>th</sup>), and Ninth (9<sup>th</sup>) floors  
Rentable Square Feet: 99,421 rentable square feet in the aggregate
4. **Term (See Section 2):** Ninety-Eight (98) full calendar months  
  
Commencement Date: November 1, 2025  
Expiration Date: December 31, 2033
5. **Net Rent (See Section 5):**

Period	Rate Per Sq. Ft.	Annual Net Rent	Monthly Installment
11/01/25 – 10/31/26 <sup>1</sup>	\$20.00	\$1,988,420.00	\$165,701.67
11/01/26 – 10/31/27	\$20.50	\$2,038,130.50	\$169,844.21
11/01/27 – 10/31/28	\$21.00	\$2,087,841.00	\$173,986.75
11/01/28 – 10/31/29	\$21.50	\$2,137,551.50	\$178,129.29
11/01/29 – 10/31/30	\$22.00	\$2,187,262.00	\$182,271.83
11/01/30 – 10/31/31	\$22.50	\$2,236,972.50	\$186,414.38
11/01/31 – 10/31/32	\$23.00	\$2,286,683.00	\$190,556.92

<sup>1</sup> The period commencing on November 1, 2025 and ending on September 30, 2026 is subject to the Free Rent Period (as hereinafter defined).

11/01/32 – 10/31/33	\$23.50	\$2,336,393.50	\$194,699.46
11/01/33 – 12/31/33	\$24.00	\$397,684.00 <sup>2</sup>	\$198,842.00

6. **Rent Payment Address (See Section 5):**

FCA Fund Chicago II, LLC  
 UNIT 541  
 c/o Colliers International  
 P.O. Box 4857  
 Portland, OR 97208-4857

7. **Tenant's Share (See Section 7):** 15.596% (based on 637,484 rentable square feet in the Project)

8. **Security Deposit (See Section 10):** None

9. **Parking Spaces (See Section 18):** Three hundred eighteen (318) Allocated Parking Spaces (as hereinafter defined)

10. **Tenant Improvement Allowance (See Section 20):** Three Million Four Hundred Seventy-Nine Thousand Seven Hundred Thirty-Five and No/100 Dollars (\$3,479,735.00) (calculated by multiplying \$35.00 by 99,421, being the rentable area of the Premises)

11. **Tenant's Liability Insurance (See Section 28):** \$5,000,000.00 umbrella coverage

12. **Landlord's Broker (See Section 49):** Colliers Bennett & Kahnweiler LLC  
 d/b/a Colliers International

**Tenant's Broker (See Section 49):** Avison Young – Chicago, LLC

13. **Notice Address (See Section 32):**

Landlord:

FCA Fund Chicago II, LLC  
 c/o FCA Partners, LLC  
 Attn: Edward M. Cherry  
 300 South Tryon Street, Suite 420  
 Charlotte, NC 28202

Tenant:

City of Chicago  
 Department of Aviation  
 10510 W. Zemke Blvd., 2<sup>nd</sup> Floor  
 PO Box 66848  
 Chicago, IL 60666  
 Attn: Commissioner

<sup>2</sup> Prorated for the two (2) month period commencing on November 1, 2033 and ending on December 31, 2033.

With a copy to:

FCA Fund Chicago, II, LLC  
c/o FCA Partners, LLC  
Attn: Property Manager  
U.S. Cellular Plaza  
8420 West Bryn Mawr Avenue, Suite 190  
Chicago, IL 60631

And a copy to:

Moore & VanAllen, PLLC  
Attn: Jeffrey W. Glenney  
100 North Tryon Street  
Suite 4700  
Charlotte, NC 28202-4003

With a copy to:

City of Chicago  
c/o Department of Aviation  
10510 W. Zemke Blvd., 2nd Floor  
PO Box 66848  
Chicago, IL 60666  
Attn: General Counsel

And a copy to:

Deputy Corporation Counsel – Aviation  
Environmental, Regulatory and Contracts  
City of Chicago Department of Law  
2 N. LaSalle St., Ste. 540  
Chicago, IL 60602

14. **Guarantor (See Section 59):** N/A

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the Effective Date set forth on the first page hereof.

LANDLORD:

**FCA FUND CHICAGO II, LLC**, a  
Delaware limited liability company

By: FCA-IV, LLC, a Delaware limited  
liability company, its sole member

By: FCA Partners, LLC, a North Carolina  
limited liability company, its manager

By: \_\_\_\_\_  
Name: Edward M. Cherry  
Title: Manager

TENANT:

**CITY OF CHICAGO**, a municipal corporation and  
home rule unit of local government organized and  
existing under Article VII, Sections 1 and 6(a),  
respectively, of the 1970 Constitution of the State of  
Illinois

By: Commissioner  
Chicago Department of Aviation

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

### OFFICE LEASE AGREEMENT

THIS OFFICE LEASE AGREEMENT (hereinafter called the "**Lease**") is made and entered into as of the date appearing on the first page hereof by and between the Landlord and Tenant identified above.

#### **A. Premises/Term/Possession.**

1. **Premises.** Landlord does hereby rent and lease to Tenant and Tenant does hereby rent and lease from Landlord, for general office purposes of a type customary for "first-class" office buildings comparable to the Building in age and quality and located in the "O'Hare" submarket of the Chicago, Illinois marketplace ("**Comparable Buildings**"), the Premises identified in Item 3 of the Basic Lease Provisions located in the Building identified in Item 1 of the Basic Lease Provisions, which Building comprises one of the buildings constituting the Project identified in Item 2 of the Basic Lease Provisions situated on the real property described in Exhibit A attached hereto and incorporated herein (the "**Property**"), such Premises as all further shown and depicted on Exhibit A-1 and incorporated herein (excluding, however, any and all furniture, fixtures, equipment, and other existing conditions reflected thereon, it being acknowledged, understood, and agreed that Landlord makes no representation or warranty, nor does Landlord undertake any obligations with respect to, any such furniture, fixtures, equipment, and/or other existing conditions). The Premises shall be prepared for Tenant's occupancy in the manner and subject to the provisions of the Work Letter attached as Exhibit B hereto and incorporated herein (the "**Work Letter**"). As used in this Lease, "**rentable square feet**" shall be determined substantially in accordance with the ANSI/BOMA Z65.1-1996 standard promulgated by the Building Owners and Managers Association. Landlord and Tenant agree that the number of rentable square feet described in Item 3 of the Basic Lease Provisions has been confirmed and conclusively agreed upon by the parties. No easement for light, air, or view is granted hereunder or included within or appurtenant to the Premises.

2. **Lease Term.** Tenant shall have and hold the Premises for the Term identified in Item 4 of the Basic Lease Provisions, commencing on the Commencement Date identified in Item 4 of the Basic Lease Provisions, and terminating at 11:59 p.m. Chicago time on the Expiration Date identified in Item 4 of the Basic Lease Provisions, unless sooner terminated or extended as hereinafter provided.

3. **Landlord's Failure to Give Possession.** Tenant is currently (or will be as of the Commencement Date hereof) in occupancy of the Premises pursuant to the Existing Sublease (as hereinafter defined), and the Commencement Date shall therefore not be delayed or otherwise subject to delay, or modification, and this Lease shall not be void or voidable as a result of, nor shall Landlord be liable to Tenant or any of the Tenant Parties (as hereinafter defined) for any loss or damage arising in connection with, any actual or alleged failure or delay of Landlord in tendering possession of the Premises to Tenant hereunder.

4. **Quiet Enjoyment.** So long as Tenant is not then in default beyond any applicable notice and cure period under any of the terms, provisions, covenants, or conditions contained in this Lease, Tenant shall peaceably and quietly have, hold, and enjoy the Premises, together with reasonable access thereto, during the Term hereof without hindrance or molestation by Landlord, Landlord's property manager, or any of their respective partners, members, principals, officers, directors, shareholders, affiliates, employees, agents, lenders, or contractors, or any of their respective successors or assigns (collectively, the "**Landlord Parties**"), subject, however, to the terms, provisions, covenants, and conditions of this Lease. Landlord shall not be responsible for the acts or omissions of any other tenant, Tenant, any of the other Tenant Parties, or any third party not under the direction or control of Landlord that may interfere with Tenant's use and enjoyment of the Premises hereunder or otherwise (provided, however, in the event that any other tenant of the Building interferes with Tenant's use and enjoyment of the Premises hereunder in any material respect,

Tenant shall so notify Landlord thereof in writing and Landlord shall thereupon direct such tenant to cease such interference).

**B. Rent/Payment/Security Deposit.**

5. **Net Rent.** Tenant shall pay to Landlord, at the address stated in Item 6 of the Basic Lease Provisions or at such other place as Landlord may designate in writing to Tenant from time to time, annual net rent ("**Net Rent**") in the amounts set forth in Item 5 of the Basic Lease Provisions. The term "**Lease Year**", as used in the Basic Lease Provisions and throughout this Lease, shall mean each and every consecutive twelve (12) month period during the Term of this Lease, with the first such twelve (12) month period commencing on the Commencement Date; provided, however, if the Commencement Date occurs other than on the first day of a calendar month, the first Lease Year shall be that partial month plus the first full twelve (12) months thereafter.

6. **Rent Payment; Free Rent Period.**

(a) The Net Rent for each Lease Year shall be payable in equal monthly installments, due on the first day of each calendar month, in advance, in legal tender of the United States of America, without abatement, demand, deduction or offset whatsoever, except as may be expressly provided in this Lease. One (1) full monthly installment of Net Rent and Additional Rent (as hereinafter defined) shall be due and payable on the date of execution of this Lease by Tenant and shall be applied to the first month's Net Rent and Additional Rent coming due and payable upon expiration or termination of the Free Rent Period, and a like monthly installment of Net Rent and Additional Rent shall be due and payable on or before the first day of each calendar month thereafter. Tenant shall pay, as Additional Rent (as hereinafter defined), all other sums, charges, and amounts due from Tenant under this Lease (the term "**Rent**", as used herein, means all Net Rent, Additional Rent and all other amounts payable hereunder from Tenant to Landlord). Tenant's obligation to pay Rent hereunder is a separate and independent covenant of Tenant, and is not dependent or conditioned upon any other term, provision, covenant, or condition of this Lease.

(b) Notwithstanding anything to the contrary contained herein, and solely as a concession to enter into this Lease, Tenant's obligations for Net Rent and Tenant's Share of Operating Expenses and Taxes shall be abated in full for the eleven (11) month period commencing on November 1, 2025 and ending on September 30, 2026 (such period being herein referred to as the "**Free Rent Period**", and the aggregate amount of Net Rent and Tenant's Share of Operating Expenses and Taxes abated during the Free Rent Period hereunder being herein referred to as the "**Abated Rent**"); provided, however, if Tenant shall be in default beyond any applicable notice and cure period at any time under any of the terms, provisions, covenants, or conditions of this Lease, Tenant shall not be entitled to the Free Rent Period hereunder, and Tenant shall thereafter become obligated to repay all of the Abated Rent hereunder, together with interest thereon at the Default Rate (as hereinafter defined) accruing as of the date(s) on which such Abated Rent would otherwise have been due and payable hereunder but for such abatement, immediately upon the written demand of Landlord.

7. **Operating Expenses/Taxes.**

(a) Tenant agrees to reimburse Landlord throughout the Term, as additional rent (the "**Additional Rent**") hereunder, for Tenant's Share (as hereinafter defined) of: (i) the annual Operating Expenses (as hereinafter defined); and (ii) the annual Taxes (as hereinafter defined). The term "**Tenant's Share**" as used in this Lease shall mean the percentage determined by dividing the rentable square footage of the Premises by the rentable square footage of the Project. Landlord and Tenant hereby agree that Tenant's Share with respect to the Premises initially demised by this Lease is the percentage amount set

forth in Item 7 of the Basic Lease Provisions. Tenant's Share of Operating Expenses and Taxes for any calendar year shall be appropriately prorated for any partial year occurring during the Term.

(b) **"Operating Expenses"** shall mean all of those expenses of operating, servicing, managing, maintaining and repairing the Property, Project, Building, and all parking areas (including the parking ramp and garage) and all related Common Areas (as hereinafter defined), as well as the reasonable allocation by Landlord of any expenses incurred and related to facilities located on other property but serving the Property. Operating Expenses shall include, without limitation, the following: (1) insurance premiums and deductible amounts, including, without limitation, for commercial general liability, "all risks", "special form", or comparable property, rent loss, and other coverages carried by Landlord on the Building, the Project, and the Property (which other coverages, if any, shall be consistent with the coverages then being carried by the owners of Comparable Buildings); (2) all costs related to the provision of water, heating, lighting, ventilation, sanitary sewer, air conditioning, and other utilities in the Building, the Project, and the Property, but specifically excluding the costs of providing electricity or power to the extent paid separately by Tenant or any other tenants of the Building or the Project; (3) janitorial and maintenance expenses, including, without limitation: (A) janitorial services and janitorial supplies and other materials used in the operation and maintenance of the Building, the Project, and the Property; (B) the cost of maintenance and service agreements on equipment, window cleaning, grounds maintenance, pest control, access control services, trash and snow removal, and other similar services or agreements, and (C) the cost of such additional and/or extraordinary cleaning, sanitization, and/or disinfection services and procedures as may be necessary or appropriate from time to time with respect to the lobby, common use hallways and stairways, elevators, vehicular and pedestrian traffic areas, common area restrooms, and other common use areas; (4) management fees (or a charge equal to fair market management fees if Landlord provides its own management services), which management fees or charges with respect to any calendar year during the Term hereof shall not exceed three percent (3%) of the gross revenues attributable to the Project for such calendar year, and the market rental value of a management office (the size and finishes of which management office shall be consistent with management offices then being maintained at Comparable Buildings); (5) the costs, including interest, amortized over the applicable useful life, of any capital improvement made to the Building, the Project, and/or the Property by or on behalf of Landlord which (i) is required under any governmental Law (as hereinafter defined) or regulation (or any judicial interpretation thereof) that was not applicable to the Building, the Project, and/or the Property as of the Effective Date of this Lease, or (ii) involves the acquisition and/or installation of any device and/or equipment designed to improve the operating efficiency of any system within the Building, the Project, and/or the Property which is (A) reasonably intended to reduce Operating Expenses (but only to the extent of the projected savings attributable thereto as reasonably determined by Landlord), or (B) reasonably intended to improve the safety of the Building, the Project, and/or the Property; (6) all services, supplies, repairs, replacements, or other expenses associated with servicing, maintaining, managing, monitoring, cleaning, disinfecting, sanitizing, and operating the Building, the Project, and/or the Property, including, without limitation, the lobby, common use hallways and stairways, elevators, vehicular and pedestrian traffic areas, common area restrooms, and other common use areas; (7) wages and salaries of Landlord's employees (not above the level of Building or Property Manager or whatever title represents the on-site management representative primarily responsible for management of the Building and/or the Project) engaged in the maintenance, operation, repair and services of the Building, the Project, and/or the Property, including taxes, insurance, educational expenses and customary fringe benefits; (8) legal and accounting costs (but not including legal costs incurred in collecting delinquent rent from any occupants of the Project); (9) costs to maintain and repair the Building, the Project, and/or the Property; (10) landscaping and security costs unless Landlord hires a third party to provide such services pursuant to a service contract and the cost of that service contract is already included in Operating Expenses as described above; and (11) except as otherwise provided herein, if the Building is part of a multi-building project, the Building's allocated share (as reasonably determined by Landlord) of those expenses incurred on a project-wide basis benefiting the Building, the Project, and/or

the Property including, without limitation, costs in connection with (i) landscaping, (ii) utility and road repairs, (iii) security, and (iv) signage installation, replacement and repair.

Operating Expenses shall specifically further exclude, however, the following: (i) costs of improvements, allowances, concessions, and alterations of the Premises and the premises of other tenants of the Project and relocations of such premises; (ii) costs of capital improvements, including capital costs for curing existing violations of Laws in the Project, except to the extent that such violations arise due to Laws first enacted, or which first become effective of enforceable, after the Effective Date of this Lease, and except as otherwise provided in Clause (5) of the immediately preceding paragraph; (iii) depreciation, amortization, interest, penalties, and principal payments on mortgages, and other debt costs, if any; (iv) real estate brokers' leasing commissions or compensation and advertising and other marketing expenses; (v) payments to affiliates of the Landlord for goods and/or services in excess of what would be paid to non-affiliated parties for such goods and/or services in an arm's length transaction; (vi) costs or other services or work performed for the singular benefit of another tenant or occupant (other than for Common Areas of the Building, the Project, and/or the Property); (vii) legal, space planning, construction, and other expenses incurred in procuring tenants for the Building and/or the Project or negotiating, renewing, or amending leases with existing tenants or occupants of the Building and/or the Project; (viii) costs of advertising and public relations and promotional costs and attorneys' fees associated with the leasing of the Building and/or the Project or resolving disputes with tenants thereof; (ix) any expense for which Landlord actually receives reimbursement from insurance, condemnation awards, other tenants (except as part of Operating Expense reimbursements), or any other source; (x) costs incurred in connection with the sale, financing, refinancing, mortgaging, or other change of ownership of the Building and/or the Project; (xi) all expenses in connection with the installation, operation and maintenance of any observatory, broadcasting facilities, luncheon club, athletic or recreation club, cafeteria, dining facility, or other facility not generally available to all office tenants of the Building and/or the Project, including Tenant; (xii) Taxes; (xiii) rental under any ground or underlying lease or leases; (xiv) costs of correcting any existing violations of, or existing non-compliance with, applicable Laws in effect as of the Effective Date hereof (provided, however, that Operating Expenses may include the costs of complying with any applicable Laws that were not applicable to the Building, the Project, and/or the Property as of the Effective Date of this Lease, as well as ongoing compliance costs with respect to any applicable Laws, regardless of when the same were first enacted, effective, or enforceable); (xv) costs of acquiring artwork in the common areas of the Building and/or the Project (except that Operating Expenses may include ordinary maintenance, repair, security, and insurance costs with respect thereto); (xvi) costs of Landlord's political or charitable contributions; and (xvii) costs and expenses incurred as a result of the renaming of the Project by Landlord.

(c) **"Taxes"** shall mean all federal, state, and local taxes and assessments of every kind and nature which Landlord shall become obligated to pay with respect to each calendar year of the Term or portion thereof because of or in any way connected with the ownership, leasing, and operation of the Building and/or the Project, subject to the following: (i) the amount of ad valorem real and personal property taxes against Landlord's real and personal property to be included in Taxes shall be the amount required to be paid for any calendar year, notwithstanding that such Taxes are assessed for a different calendar year (the amount of any tax refunds received by Landlord during the Term of this Lease shall be deducted from Taxes for the calendar year to which such refunds are attributable); (ii) the amount of special taxes and special assessments to be included shall be limited to the amount of the installments (plus any interest, other than penalty interest, payable thereon) of such special tax or special assessment payable for the calendar year in respect of which Taxes are being determined; (iii) the amount of any tax or excise levied by the State of Illinois (the "**State**"), the County of Cook (the "**County**"), and/or the City of Chicago (the "**City**"), any political subdivision thereof, or any other taxing body, on rents or other income from the Project (or the value of the leases thereon) to be included shall not be greater than the amount which would have been payable on account of such tax or excise by Landlord during the calendar year in respect of which Taxes are being determined had the income received by Landlord from the Building [excluding amounts

payable under this Clause (iii)] and/or the Project been the sole taxable income of Landlord for such calendar year; (iv) there shall be excluded from Taxes all income taxes [except those which may be included pursuant to the preceding Clause (iii) above], excess profits taxes, franchise, capital stock, and inheritance or estate taxes; and (v) Taxes shall also include Landlord's reasonable costs and expenses (including reasonable attorneys' fees) in contesting or attempting to reduce any Taxes assessed for a different calendar year. Landlord shall consult with such real estate tax consultant or advisor as may be engaged by Landlord from time to time and, in the exercise of its reasonable and prudent ownership judgment, to contest any unreasonable tax assessment to the extent that such tax consultant or advisor advises Landlord that a reasonable basis exists therefor. Landlord reserves the right to make reasonable allocations of Taxes attributable to any portion of the Project in accordance with sound accounting and management practices. Tenant shall be entitled to receive from Landlord Tenant's Share of any refund of Taxes for any prior calendar year during the Term hereof (net of expenses of obtaining such refund not otherwise previously included in Taxes) for which Tenant shall have paid Tenant's Share of such Taxes for such calendar year as Additional Rent hereunder. The foregoing obligation shall survive the expiration or earlier termination of this Lease.

(d) Landlord shall, on or before the Commencement Date and as soon as reasonably possible after the commencement of each calendar year thereafter, provide Tenant with a statement of the estimated monthly installments of Tenant's Share of Operating Expenses and Taxes which will be due for the remainder of the calendar year in which the Commencement Date occurs or for the next ensuing calendar year, as the case may be. Landlord agrees to keep books and records showing the Operating Expenses in accordance with generally accepted accounting principles (as modified for office buildings in a manner comparable to other Comparable Buildings) and practices consistently maintained on a year-to-year basis in compliance with such provisions of this Lease as may affect such accounts. Landlord shall deliver to Tenant within one hundred twenty (120) days after the later of the close of each calendar year (including the calendar year in which this Lease terminates) of the Term or Landlord's receipt of the final real estate tax bill for such year (subject to any delays beyond the reasonable control of Landlord to prevent), a statement (each, a "**Landlord's Statement**") containing the following: (1) the amount of Operating Expenses for such calendar year; and (2) the amount of Taxes for such calendar year. Upon ten (10) business days' prior written request (herein, an "**Audit Notice**") delivered to Landlord not later than ninety (90) days following the date on which Landlord's Statement is delivered to Tenant (herein, the "**Audit Notice Period**"), Landlord will provide Tenant and Tenant's consultant (so long as such consultant (A) is not engaged by Tenant on a contingent fee basis, and (B) executes a confidentiality agreement reasonably satisfactory to Landlord) with the right to inspect, review, and audit Landlord's books and records relating to such Landlord's Statement. If Tenant fails to deliver to Landlord a written objection to Landlord's Statement (herein, an "**Objection Notice**") by the later of (i) the expiration of the Audit Notice Period, or (ii) thirty (30) days after access is provided by Landlord to the applicable books and records as hereinabove provided (herein, the "**Audit Objection Period**") (time being of the essence with respect thereto in each instance), Tenant shall be deemed to have accepted such Landlord's Statement as true and correct and shall be deemed to have waived any right to dispute the Operating Expenses and/or Taxes due pursuant to such Landlord's Statement. Conversely, if Tenant does deliver to Landlord an Objection Notice prior to expiration of the Audit Objection Period, any charges identified in Tenant's Objection Notice which Landlord agrees are irregular or improper shall be promptly corrected by Landlord, and Tenant shall receive a credit (subject, however to Landlord's right to offset such amount by any amounts then owing from Tenant to Landlord under this Lease) for any overpayments made by Tenant as a result of such irregularities or improper charges. To the extent that Landlord and Tenant fail to agree, a certification ("**Certification**") as to the proper amount of Tenant's Share of Operating Expenses or Taxes shall, as promptly as reasonably possible, be given by such independent certified public accounting firm as is selected by Landlord, which Certification shall be final, binding, and conclusive upon Landlord and Tenant. Tenant agrees to pay the cost of such Certification unless it is determined that Landlord's original determination of the actual (as distinguished from estimated) amount of Tenant's Share of Operating Expenses or Tenant's Share of Taxes,

taken separately, was in error by more than five percent (5%), in which case Landlord shall pay the cost of such Certification.

(i) Tenant shall pay to Landlord, together with its monthly payment of Net Rent as provided in Section 5 above, as Additional Rent hereunder, the estimated monthly installment of Tenant's Share of the Operating Expenses and Taxes for the calendar year in question. At the end of any calendar year, if Tenant has paid to Landlord an amount in excess of Tenant's Share of Operating Expenses and Taxes for such calendar year, Landlord shall reimburse to Tenant any such excess amount (or shall apply any such excess amount to any amount then owing to Landlord hereunder, and if none, to the next due installment or installments of Additional Rent due hereunder, at the option of Landlord). At the end of any calendar year if Tenant has paid to Landlord less than Tenant's Share of Operating Expenses and Taxes for such calendar year, Tenant shall pay to Landlord any such deficiency within thirty (30) days after Tenant receives such Landlord's Statement. The provisions of this Subsection 7(d)(i) shall survive the expiration or termination of this Lease.

(ii) For the calendar year in which this Lease terminates and is not extended or renewed, the terms, provisions, covenants, and conditions of this Section 7 shall apply, but Tenant's Share for such calendar year shall be subject to a pro rata adjustment based upon the number of days prior to the expiration of the Term of this Lease. Tenant shall make monthly estimated payments of the pro rata portion of Tenant's Share for such calendar year (in the manner provided above) and when the actual prorated Tenant's Share for such calendar year is determined, Landlord shall send Landlord's Statement to Tenant for such year and if such Landlord's Statement reveals that Tenant's estimated payments for the prorated Tenant's Share for such calendar year exceeded the actual prorated Tenant's Share for such calendar year, Landlord shall include a refund for that amount along with such Landlord's Statement (subject to offset in the event Tenant is in default hereunder). If Landlord's Statement reveals that Tenant's estimated payments for the prorated Tenant's Share for such calendar year were less than the actual prorated Tenant's Share for such calendar year, Tenant shall pay the shortfall to Landlord within thirty (30) days after the date of receipt of Landlord's Statement. The provisions of this Subsection 7(d)(ii) shall survive the expiration or termination of this Lease.

(iii) If the Project is less than ninety-five percent (95%) occupied throughout any calendar year of the Term, then the actual Operating Expenses for the calendar year in question which vary with occupancy levels in the Project shall be increased to the amount of Operating Expenses which Landlord reasonably determines would have been incurred during that calendar year if the Project had been at least ninety-five percent (95%) occupied throughout such calendar year. Such adjustment shall be determined in accordance with generally accepted accounting principles (as modified for office buildings in a manner comparable to other Comparable Buildings) and practices consistently maintained on a year-to-year basis. If any expense paid in one (1) calendar year relates to more than (1) calendar year, such expense may be proportionately allocated among such related calendar years.

(e) Notwithstanding anything in this Section 7 to the contrary, but subject in all events to Subsection 7(d)(iii) above, Landlord hereby agrees that, for purposes of computing Tenant's Share of Operating Expenses hereunder for each calendar year or fiscal year of the Term following the 2025 calendar year (herein, the "**Cap Base Year**"), increases in Controllable Operating Expenses (as hereinafter defined) for any subsequent calendar or other fiscal year of Landlord during the Term hereof shall not exceed five percent (5%) of Controllable Expenses used in determining Tenant's Share of Operating Expenses for the immediately preceding calendar or other fiscal year during the Term (the "**Controllable Operating Expense Cap**"), subject to the following provisions:

(i) The Controllable Operating Expense Cap shall be applied on a cumulative, compounding basis such that, if Controllable Operating Expenses either decrease or increase by less than the foregoing Controllable Operating Expense Cap amount in any such year or years, Landlord may apply the difference between Controllable Operating Expenses and the Controllable Operating Expense Cap for such year or years to increase the Controllable Operating Expense Cap in another year or years, so long as Controllable Operating Expenses do not exceed the foregoing Controllable Operating Expense Cap on a cumulative, compounding basis during the Term. The Controllable Operating Expense Cap shall be initially established based upon Controllable Operating Expenses for the Cap Base Year. However, any increases in Operating Expenses not recovered by Landlord due to the foregoing limitation may be carried forward into succeeding calendar years during the Term (subject to the foregoing limitation) to the extent necessary until fully recouped by Landlord.

(ii) This provision is provided as a concession to Tenant, is personal to the City of Chicago (and to any Permitted Transferee pursuant to a Permitted Transfer, as each such term is hereinafter defined), and shall no longer apply if Tenant shall assign this Lease or sublet all or any portion of the Premises.

(iii) For purposes of this Subsection 7(e), “**Controllable Operating Expenses**” shall mean all Operating Expenses other than (a) insurance, (b) utility costs, rates, and charges, (c) snow removal costs and other weather-related costs (including extraordinary landscape maintenance costs, such as those resulting from infestation, storms, drought and other severe weather), (d) costs of governmental licenses, fees, and permits, (e) those labor costs which are subject to union or collective bargaining agreements or other industry-wide cost increases which are beyond the reasonable control of Landlord, (f) those costs required by applicable Laws and governmental regulations, (g) real estate and other taxes, including Taxes, (h) costs of capital improvements permitted under Clause (5) of the first grammatical paragraph of Subsection 7(b) above, (i) property management fees (subject, however, to the limitations expressly set forth in Clause (4) of the first grammatical paragraph of Subsection 7(b) above), (j) non-recurring costs due to federal, state, or local emergency declarations or similar circumstances (including, without limitation, epidemics, pandemics, viral outbreaks, and other medical or health emergencies), (k) costs incurred specifically at the request of Tenant or any Tenant Parties and not expressly required to be incurred by Landlord pursuant to this Lease, and (l) such other ordinary and customary costs and expenses as are beyond the reasonable control of Landlord from time to time. For purposes of the foregoing, the cost of services that can be competitively bid shall be “**beyond the reasonable control of Landlord**” if, with respect to the expense in question, either (1) Landlord selected the lowest qualifying bid from at least three (3) bidders, or (2) the increase is comparable to the increase in the same expense type incurred by owners of other Comparable Buildings.

8. **Default Interest.** Other remedies for non-payment of Rent notwithstanding, if any monthly installment of Net Rent or Additional Rent is not received by Landlord on or before the date due, or if any payment due Landlord by Tenant which does not have a scheduled due date is not received by Landlord on or before the thirtieth (30<sup>th</sup>) day following the date Tenant was invoiced, interest shall accrue on all such delinquent amounts from the date past due until paid at the lower of a rate of one and one-half percent (1½%) per month or fraction thereof from the date such payment is due until paid (Annual Percentage Rate = 18%), or the highest rate permitted by applicable Law (the “**Default Rate**”).

9. **Partial Payment.** No payment by Tenant or acceptance by Landlord of an amount less than the Rent herein stipulated shall be deemed a waiver of any other Rent due. No partial payment or endorsement on any check or any letter accompanying such payment of Rent shall be deemed an accord

and satisfaction, but Landlord may accept such payment without prejudice to Landlord's right to collect the balance of any Rent due under the terms, provisions, covenants, and conditions of this Lease or any late charge assessed against Tenant hereunder.

10. **Security Deposit.** [Intentionally Omitted]

C. **Use/Laws/Rules.**

11. **Use of Premises.**

(a) Tenant, for itself and for its partners, members, principals, officers, directors, shareholders, affiliates, employees, agents, lenders, contractors, consultants, assignees, subtenants, licensees, guests, or invitees (collectively, the "**Tenant Parties**"), agrees that the Premises shall be used and occupied for general office purposes, including, without limitation, the use of portions of the Premises for a lunch room, break room, operation of vending machines, microwave ovens, refrigerators, electronic data processing equipment, computer room, telephone switch, and computer equipment, including commercial printing, conference rooms, and other functions and facilities generally used in space leased for general office, but in all events of a type customary for Comparable Buildings, and for no other purpose. The Premises shall not be used for (i) any illegal purpose, (ii) in violation of any Law or governmental order or directive, (iii) any manner to create any nuisance or trespass, (iv) in any manner which will void the insurance or increase the rate of insurance on the Premises or the Building, (v) in any manner which threatens or endangers the life, health, safety, or welfare of Landlord or any of the other tenants or occupants of the Building, the Property, and/or the Project, nor (vi) in any manner inconsistent with the first-class nature of the Building. Neither Tenant nor any of the Tenant Parties shall (A) use or operate the Premises in any manner that will cause the Building, or any part thereof, not to conform with Landlord's sustainability practices, or (B) engage in acts of violence or threats of violence, including, without limitation, displaying, discharging, or possessing a firearm, knife, or other weapon that may threaten, alarm, or intimidate other tenants or occupants of the Building or the Project.

(b) Tenant shall not cause or permit the receipt, storage, use, location or handling on the Premises, the Building, the Property, and/or the Project of any product, material, or merchandise which is explosive, highly inflammable, or a Hazardous or Toxic Material (as hereinafter defined). "**Hazardous or Toxic Material**" shall mean and include, without limitation, all materials or substances which have been determined to be hazardous to health or to the environment and are regulated or subject to any applicable Laws, rules, and regulations from time to time, including, without limitation, hazardous waste (as defined in the Resource Conservation and Recovery Act); hazardous substances (as defined in the Comprehensive Emergency Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act); gasoline or any other petroleum product or by-product or other hydrocarbon derivative; toxic substances, (as defined by the Toxic Substances Control Act); insecticides, fungicides or rodenticide, (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act); asbestos and radon and substances determined to be hazardous under the Occupational Safety and Health Act or regulations promulgated thereunder; and mold. Notwithstanding the foregoing, Tenant shall not be in breach of this provision as a result of the presence in the Premises of minor amounts of Hazardous or Toxic Materials which are in compliance with all applicable Laws, ordinances, and regulations and are customarily present in a general office use (e.g., copying machine chemicals and kitchen cleansers).

(c) Without limiting in any way Tenant's obligations under any other term, provision, covenant, or condition of this Lease, Tenant and its successors and assigns shall, to the maximum extent permitted by applicable Laws, indemnify, protect, defend (with counsel approved by Landlord), and hold Landlord and the other Landlord Parties harmless from and against any and all claims, damages, liabilities, losses, costs, and expenses of any nature whatsoever, known or unknown, contingent or otherwise

(including, without limitation, attorneys' fees, litigation, arbitration and administrative proceedings costs, expert and consultant fees and laboratory costs, as well as damages arising out of the diminution in the value of the Premises or any portion thereof, damages for the loss of the Premises, and sums paid in settlement of claims), which arise during or after the Term in whole or in part as a result of the presence or suspected presence of any Hazardous or Toxic Materials, in, on, under, from or about the Premises, the Building, the Property, and/or the Project due to the acts or omissions of Tenant or any of the Tenant Parties, except to the extent that such claims, damages, liabilities, losses, costs and expenses arise out of or are caused by the negligence or willful misconduct of Landlord or any of the other Landlord Parties. Without limiting in any way Landlord's obligations under any other term, provision, covenant, or condition of this Lease, Landlord and its successors and assigns shall, to the maximum extent permitted by applicable Laws, indemnify, protect, defend and hold Tenant and the Tenant Parties harmless from any and all claims, damages, liabilities, losses, costs, and expenses of any nature whatsoever, known or unknown, contingent or otherwise (including, without limitation, reasonable attorneys' fees, litigation, arbitration and administrative proceedings costs, expert and consultant fees and laboratory costs, and sums paid in settlement of claims), which arise during or after the Term in whole or in part as a result of the presence of any Hazardous or Toxic Materials, in, on, under, from, or about the Premises, the Building, the Property, and/or the Project to the extent due to the (i) acts or omissions of Landlord or any of the other Landlord Parties, or (ii) the acts or omissions of other tenants of the Building, the Property, and/or the Project, in each case to the extent in violation of applicable Laws relating to Hazardous or Toxic Materials, except to the extent that, in any such case, such claims, damages, liabilities, losses, costs and expenses arise out of or are caused by the negligence or willful misconduct of Tenant or any of the Tenant Parties. The indemnities contained herein shall survive the expiration or earlier termination of this Lease.

(d) Tenant and the other Tenant Parties shall have the reasonable non-exclusive right to use, in common with Landlord, the other Landlord Parties, and the other tenants and occupants of the Project and their respective employees, customers, and invitees, and all others to whom Landlord has or may hereafter grant rights to use the same, the public portion of the common areas (the "**Common Areas**") as may exist from time to time in the Project to the extent permitted by the Landlord. Landlord shall have the right to close any or all portions of the Common Areas to such extent as may, in Landlord's opinion, be necessary to prevent a dedication thereof or the accrual of any rights to any person or the public therein or to discourage non-customer parking. Landlord shall at all times have full control, management, and direction of the Common Areas. Tenant shall not cause or allow any storage of materials or equipment outside of the Premises on within any of the Common Areas and may arrange for delivery of its goods and merchandise over and across the access and delivery alleys of the Common Areas only in vehicles of a size appropriate for such access and delivery alleys and otherwise in accordance with the Project rules and regulations promulgated by Landlord from time to time. So long as Landlord uses commercially reasonable efforts to minimize any material and adverse impact on Tenant's visibility, access to the Premises, and parking rights in connection therewith, Landlord reserves the right, at any time and from time to time, to reduce, increase, enclose, or otherwise change the size, number, location, layout, and nature of the Project and/or its Common Areas; to construct additional buildings and stories; to create additional rentable areas through use and/or enclosure of Common Areas; to close portions of the Common Areas for security reasons, to perform maintenance, repairs, replacement, and alterations and to discourage non-tenant parking; to place signs in the Common Areas and on the Project; to change the name of the Project; to change the nature of the use of any portion of the Project; and to perform such other acts as Landlord in the exercise of its business judgment shall determine to be necessary or appropriate for the Project. Tenant's right to use the Common Areas shall at all times be subject to the rules and regulations promulgated by Landlord from time to time.

12. **Compliance with Laws.**

(a) Tenant shall comply with all statutes, laws, orders, ordinances, codes, regulations, rules, rulings, orders, decrees, directives, policies, and requirements of all Federal, State, County, City, municipal and other governing authorities, departments, agencies, commissions, boards, or political subdivisions having jurisdiction over the Building, the Property, the Project, and/or the Land (each, a "Law", and, collectively, "Laws"), including, without limitation, the provisions of the American's with Disabilities Act signed into law on July 26, 1990, as amended, any regulations and rules promulgated thereunder, and any applicable state and local disabilities or accessibility requirements (collectively, the "ADA"), and with all applicable Board of Fire Insurance Underwriters' regulations and requirements, in each instance if and to the extent that the same relate to the use or occupancy of the Premises by Tenant or any other Tenant Parties, the Improvement Work, any Additional Work, or any other Alterations (as each such term is hereinafter defined) that Tenant or any other Tenant Parties propose to perform therein or anywhere in the Building (whether directed to Tenant or Landlord). Tenant shall not (i) make or permit any use of the Premises, the Building, the Property, and/or the Project, (ii) do or permit to be done anything in or on the Premises, the Building, the Property, and/or the Project, or (iii) bring on or keep anything in the Premises, the Building, the Property, and/or the Project, in each case, that would violate any applicable Laws. Tenant shall procure and maintain all licenses and permits legally necessary for the use and occupancy of the Premises by Tenant and/or any other Tenant Parties, the operation of Tenant's or such other Tenant Parties' business therein, and any Alterations, and shall deliver copies of such licenses and permits to Landlord from time to time upon reasonable prior written request. Without limitation of the foregoing, (A) it is Tenant's responsibility to provide access to all facilities under Tenant's control, (B) Tenant, at Tenant's expense, shall be responsible for complying with non-structural requirements with regard to the interior of the Premises, (C) Tenant shall not engage in any activity or allow any condition relating to the Premises that would violate the ADA, and (D) Tenant shall notify Landlord immediately of any investigation, proceeding, notice, or claim regarding a violation of the ADA relating to the Premises.

(b) Landlord shall comply with all Laws, and with all applicable Board of Fire Insurance Underwriters' regulations and requirements, in each instance if and to the extent that the same relate to the Common Areas of the Building, the Property, and/or the Project, or that affect office buildings generally or the Building specifically and are not required because of the particular manner of use of the Premises by Tenant or any other Tenant Parties, or any Alterations performed by or at the direction of Tenant or any other Tenant Parties, or any special or unique requirements of Tenant or any other Tenant Parties. Landlord may include the costs of performing its obligations hereunder in Operating Expenses, except to the extent expressly excluded therefrom under Section 7 hereof (including, without limitation, Clause (xiv) of the second grammatical paragraph of Subsection (7)(b) hereof).

13. **Waste Disposal.**

(a) All normal (i.e., that does not require special handling pursuant to Subsection 13(b) below) garbage, waste, trash, rubbish, and other refuse (collectively, "Waste") shall be disposed of through the Building's janitorial service, as well as the terms, provisions, covenants, and conditions of this Section 13.

(b) Tenant shall be responsible for the removal and disposal of any and all Waste deemed under applicable Law or by any governmental authority having jurisdiction thereof to be hazardous or infectious Waste, medical Waste, or Waste requiring special handling, such removal and disposal to be in accordance with any and all applicable Laws and/or governmental directives. Tenant agrees to separate and mark appropriately all Waste to be removed and disposed of through the janitorial service pursuant to Subsection 13(a) above and hazardous, infectious, medical, or special Waste to be removed and disposed of by Tenant pursuant to this Subsection 13(b). Without limiting in any way Tenant's obligations under any other term, provision, covenant, or condition of this Lease, Tenant shall, to the maximum extent permitted by applicable Law, indemnify, protect, defend (with counsel approved by Landlord), and hold

Landlord and the other Landlord Parties harmless from and against any and all claims, damages, liabilities, losses, costs, and expenses of any nature whatsoever that Landlord or any such Landlord Parties may suffer or sustain as a result of Tenant's failure to comply with the terms, provisions, covenants, and conditions of this Subsection 13(b).

(c) Tenant further covenants and agrees, at its sole cost and expense: (i) to comply with all present and future Laws, orders, regulations, and governmental directives of the Federal, State, county, municipal, or other governing authorities, departments, commissions, agencies, and boards regarding the collection, sorting, separation, and recycling of Waste; (ii) to comply with Landlord's recycling policy as part of Landlord's sustainability practices; (iii) to sort and separate Tenant's Waste and recycling into such categories as are provided by Law or Landlord's sustainability practices; (iv) that each separately sorted category of Waste and recycling shall be placed in separate receptacles as directed by Landlord; (v) that Landlord reserves the right to refuse to collect or accept from Tenant any Waste that is not separated and sorted as required by Law or Landlord's sustainability practices, and to require Tenant to arrange for such collection at Tenant's sole cost and expense, utilizing a contractor satisfactory to Landlord; and (vi) that Tenant shall pay all costs, expenses, fines, penalties, or damages that may be imposed on Landlord, any of the other Landlord Parties, or Tenant by reason of Tenant's failure to comply with the terms, provisions, covenants, and conditions of this Subsection 13(c).

14. **Rules and Regulations.** The rules and regulations in regard to the Building, a copy of which is attached hereto as Exhibit C and incorporated herein, and all other rules and regulations and modifications thereto which Landlord may hereafter from time to time adopt and promulgate after reasonable prior notice thereof to Tenant, for the government and management of the Building, are hereby made a part of this Lease and shall during the Term (including any renewal or extension thereof) be observed and performed by Tenant and the other Tenant Parties. Landlord shall apply and enforce all such rules and regulations in a commercially reasonable and non-discriminatory manner.

**D. Services/Tenant Buildout.**

15. **Services.**

(a) The "**Normal Business Hours**" of the Building shall be from 8:00 A.M. to 6:00 P.M. on Monday through Friday, 8:00 A.M. to 1:00 P.M. Saturdays, and at such other hours and times as determined by Landlord to be required for the majority of the occupants of the Building, exclusive of Sundays and such Building holidays as are reasonably designated by Landlord ("**Building Holidays**"). Initially and until further notice by Landlord to Tenant, the Building Holidays shall be: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving (and the day after Thanksgiving) and Christmas Day. Landlord shall furnish the following services during the Normal Business Hours of the Building except as noted (and any and all costs thereof or associated therewith shall be included as part of Operating Expenses hereunder, except to the extent expressly excluded therefrom under Section 7 hereof):

(i) Elevator service for passenger needs at all times, and for delivery needs during Normal Business Hours (provided, however, that (A) Tenant shall be required to pay such Building standard charges for freight elevator usage during times other than Normal Business Hours as Landlord may have in effect from time to time, and (B) Landlord shall have the right to establish limits on the use, occupancy, timing, and operation of such elevators from time to time to the extent necessary to comply with applicable Laws or governmental directives or orders, or as may otherwise be necessary or appropriate to comply with the guidelines or recommendations of the Centers for Disease Control and Prevention ("**CDC**") and/or any other Federal, State, county, municipal, or other governing authorities, departments, commissions, agencies, or boards with jurisdiction thereof or that may be applicable from time to time with respect thereto);

(ii) Air conditioning and heat to the Premises in substantial accordance with the standards set forth on the HVAC specifications shown on Exhibit D attached hereto and incorporated herein, subject to governmental regulations (so long as the occupancy level of the Premises and the heat generated by electrical lighting and fixtures do not exceed the thresholds set forth on Exhibit D attached hereto).

(iii) Hot and cold running water for all Common Area restrooms;

(iv) Soap, paper towels, and toilet tissue for Common Area restrooms (but excluding any restrooms located wholly within the Premises, the stocking of which shall be at Tenant's sole and direct cost and expense);

(v) Janitorial service Monday through Friday in substantial accordance with the cleaning specifications shown on Exhibit E attached hereto and incorporated herein;

(vi) Electrical and mechanical maintenance services in the Building;

(vii) Electric power for the Premises shall not be furnished by Landlord but shall be furnished by the electric utility serving the Building. Tenant shall make all necessary arrangements with the utility company for securing and paying for electric power furnished by it to Tenant, and Tenant shall pay for all electric power consumed on the Premises during the Term of this Lease. To the extent that the Premises is not currently separately metered for electricity, Tenant shall cause the Premises to be separately metered for electricity;

(viii) Replacement of Building standard lamps, bulbs, and ballasts as needed from time to time, which replacement (including labor therefor) shall be at Tenant's sole cost and expense;

(ix) Repairs and maintenance as described in Section 22 of this Lease;

(x) 24-hour manned general security services in the Project in such manner as Landlord shall determine is appropriate from time to time (so long as the same is consistent with security services in Comparable Buildings) provided, (i) Landlord makes no representation or warranty whatsoever concerning the adequacy or sufficiency of any such security services, and (ii) Landlord further reserves the right to relocate, replace, modify, or alter any such security services from time to time during the Term hereof (so long as such relocations, replacements, modifications, or alterations are consistent with security services in Comparable Buildings); and

(xi) General Building management, including supervision, inspections, recordkeeping, accounting, and related management functions.

(b) Tenant may request, but shall have no right to, any services in excess of those provided herein. Landlord may, in its sole discretion and without any obligation to do so (and at Tenant's sole cost and expense to the extent not included as part of Operating Expenses hereunder), provide excess services not enumerated herein. If Tenant uses services in an amount or for a period in excess of that provided for herein, or requests repair and maintenance services after Normal Business Hours, then Landlord reserves the right, if Landlord elects to provide such excess or after-hours services, to charge Tenant as Additional Rent hereunder a reasonable sum as reimbursement for the direct cost of such added services, and to charge Tenant for the cost of any additional equipment or facilities or modifications thereto which are necessary to provide the additional services, and/or to discontinue providing such excess services

to Tenant. Landlord reserves the right to purchase, and to require Tenant to utilize, green or renewable energy hereunder.

(c) In the event that Tenant, any other Tenant Parties, any of their respective employees, agents, vendors, contractors, guests, or invitees, or anyone acting under their direction or control, enters into the Premises, the Building, and/or the Property at any time while suffering (symptomatically, asymptotically, or otherwise) from any infectious, contagious, or communicable virus, disease, or other sickness (including, without limitation, COVID-19 or any derivative thereof) that is the subject of any declared pandemic, epidemic, or other national, state, or local health emergency, Tenant shall be solely responsible for performing, at Tenant's sole cost and expense, such additional janitorial, cleaning, disinfection, and/or sanitization services in and to the Premises as Tenant deems necessary or appropriate (it being acknowledged, understood, and agreed that any such additional janitorial, cleaning, disinfection, and/or sanitization services in and to the Premises shall not be the responsibility of Landlord hereunder).

(d) Landlord shall not be liable for any damages directly or indirectly resulting from the failure, discontinuance, or interruption in or of any of the utilities or services described above, nor shall any such failure, discontinuance, or interruption be deemed an eviction or disturbance of Tenant's use and/or possession of the Premises, or any part thereof, relieve Tenant from the performance of Tenant's obligations under this Lease, or entitle Tenant to any abatement, deferral, or reduction of Rent hereunder (except as expressly provided under Subsection 15(e) below). In no event shall Landlord be liable for damages by reason of loss of profits, business interruption, or other consequential damages on account of any such failure, discontinuance, or interruption in services or utilities. To the extent within Landlord's reasonable control, Landlord shall use all reasonable efforts to furnish uninterrupted services and utilities as required above.

(e) Notwithstanding the foregoing, if any failure, discontinuance, or interruption of any service or utility which Landlord is expressly required to provide pursuant to this Section 15 (i) was not caused by a fire or other casualty (in which event Section 25 shall govern and control), (ii) was not caused by or otherwise attributable to any act or omission of Tenant or any Tenant Parties, (iii) was within the reasonable control of Landlord to prevent, (iv) continues beyond five (5) consecutive business days after written notice thereof is delivered to Landlord, (v) materially and adversely affects Tenant's ability to conduct business in the Premises, or any portion thereof, and (vi) on account of such failure, discontinuance, or interruption, Tenant ceases doing business in the Premises, or such affected portion thereof, then Net Rent and Additional Rent shall thereafter abate proportionately until the earlier of (A) the date on which Landlord restores such failed, discontinued, or interrupted service, and (B) the date on which Tenant recommences conducting its business in the Premises, or such affected portion thereof. In addition, if any failure, discontinuance, or interruption of any service or utility which Landlord is expressly required to provide pursuant to this Section 15 (1) was not caused by a fire or other casualty (in which event Section 25 shall govern and control), (2) was not caused by or otherwise attributable to any act or omission of Tenant or any Tenant Parties, (3) was within the reasonable control of Landlord to prevent, (4) continues beyond two hundred seventy (270) consecutive days after written notice thereof is delivered to Landlord, (5) materially and adversely affects Tenant's ability to conduct business in the Premises, or any material portion thereof (which, for purposes hereof, shall mean more than 40,000 rentable square feet thereof), and (6) on account of such failure, discontinuance, or interruption, Tenant ceases doing business in the Premises, or such affected material portion thereof (which, for purposes hereof, shall mean more than 40,000 rentable square feet thereof), then, so long as the conditions set forth in Clauses (1) through (6), inclusive, above remain in effect, Tenant shall have the right to terminate this Lease upon written notice delivered to Landlord at any time after the expiration of said 270-day period but prior to the date on which Landlord restores such failed, discontinued, or interrupted service. The remedies expressly set forth in this Subsection 15(e) shall constitute Tenant's sole and exclusive remedies with respect to any failure, discontinuance, or interruption of any service or utility which Landlord is expressly required to provide

pursuant to this Section 15, and Tenant hereby waives any and all other rights or remedies it may have at Law or in equity in connection with the same.

(f) Tenant specifically acknowledges, understands, and agrees that the safety and security devices, services, programs, and protocols provided by Landlord from time to time, if any, while intended to deter crime and enhance safety, may not in certain instances (or in any specific instance) prevent theft, death, bodily injury, or other criminal acts, or ensure the safety of persons or property. The risk that any safety or security device, service, program, or protocol may not be effective, or may malfunction, or may be circumvented by a criminal, or be otherwise insufficient, is assumed by Tenant and the Tenant Parties with respect to their property and interests, as well as the use and occupancy of, and their business operations in, the Premises and the Project, and Tenant shall obtain such insurance coverage as Tenant deems necessary or appropriate to the extent that Tenant desires protection against such criminal acts and other losses, as further described in Section 28 hereof. Tenant and the Tenant Parties shall fully cooperate in any reasonable safety or security program developed by Landlord or required by applicable Law.

16. **Telephone and Data Equipment.** Landlord shall have no responsibility for providing to Tenant any telephone or telecommunications equipment, including wiring, within the Premises or for providing telephone or telecommunications service or connections from the utility to the Premises, except as required by Law. Notwithstanding the foregoing, (a) Tenant shall have reasonable access to the Building's equipment room(s) and riser(s), and may run such fiber, wiring, conduit, and the like from such equipment room(s) to the Premises as may be needed to serve Tenant's telecommunications equipment located therein, and (b) Tenant shall be entitled to use, in common with others entitled thereto, Tenant's Share of the existing riser space in the Building, subject in all events to the terms, provisions, covenants, and conditions of this Lease, as well as Tenant's compliance with such riser management agreements, access restrictions, and rules and regulations as may be in effect from time to time in the Building. Tenant shall not alter, modify, add to, or disturb any telephone or telecommunications wiring or equipment in the Premises or elsewhere in the Building or the Project without the Landlord's prior written consent, which consent may be granted or withheld in Landlord's sole and absolute discretion (but which consent shall not be unreasonably withheld, conditioned, or delayed otherwise so long as any such alterations, modifications, or additions do not materially and adversely affect any base Building telecommunications pathways, raceways, risers, lines, equipment, or connections, or the telecommunications installations, equipment, or services of any other tenant or occupant of the Building or the Project). Tenant shall be liable to Landlord for any damage to the telephone or telecommunications wiring or equipment in the Building or the Project due to the acts or omissions of Tenant or any of the other Tenant Parties. Tenant shall have no access to the telephone or telecommunications closets or risers within the Building or the Project, except in the manner and under procedures established by Landlord. Tenant shall promptly notify Landlord of any actual or suspected failure of telephone or telecommunications service to the Premises. All costs incurred by Landlord for the installation, maintenance, repair, and/or replacement of telephone or telecommunications wiring or equipment within the Building and/or the Project shall be an Operating Expense unless Landlord is separately reimbursed for such costs by other tenants of the Building (other than as part of Operating Expenses). Neither Landlord nor any of the other Landlord Parties shall be liable to Tenant or any of the other Tenant Parties, and Tenant hereby waives all claims against Landlord and the other Landlord Parties whatsoever, whether for personal injury, property damage, loss of use of the Premises, or otherwise, due to the interruption or failure of telephone or telecommunications services to the Premises. To the maximum extent permitted by applicable Law, Tenant agrees to indemnify, protect, defend, and hold harmless Landlord and the other Landlord Parties from and against any and all liability for any damage, loss, or expense due to any failure or interruption of telephone or telecommunications services or equipment to the Premises for any reason. Tenant agrees to obtain business interruption insurance adequate to cover any damage, loss, or expense occasioned by the interruption of telephone or telecommunications services or equipment.

17. **Signs.** A Building standard suite entry sign identifying Tenant's name shall be installed on the door to the Premises or adjacent to the entry to the Premises. Tenant shall also be entitled to Building-standard identification signage on the existing multi-tenant Building lobby directory. Landlord shall pay the initial cost of such suite entry signage (to the extent installed by Landlord) and main lobby tenant directory signage (provided, however, that any changes in or to any such signage as may be requested by Tenant from time to time following the initial installation thereof shall be at Tenant's sole cost and expense). Otherwise, Tenant shall not paint or place any signs, placards, or other advertisements of any character upon the windows or inside walls of the Premises (except with the prior consent of Landlord, which consent may be withheld by Landlord in its sole and absolute discretion), and Tenant shall place no signs upon the outside walls, common areas, or the roof of the Building, or any other portion or portions of the Project.

18. **Parking.** No rights to specific parking spaces are granted under this Lease; provided, however, subject to Landlord's rights pursuant to the last sentence of this Section 18, Tenant shall be entitled to use up to three hundred eighteen (318) total parking spaces (herein, the "**Allocated Parking Spaces**") in the parking facilities located on the Property and allocated to the Building from time to time (based upon the existing parking ratio of 3.2/1,000 in effect as of the Effective Date hereof). As part of the foregoing Allocated Parking Spaces, Tenant shall be entitled to forty (40) reserved executive parking spaces (the "**Reserved Spaces**") located in such portion(s) of the "Reserved Parking Section" on the first (1<sup>st</sup>) and/or second (2<sup>nd</sup>) floors of the covered parking garage serving the Building as Landlord shall direct from time to time, at no additional charge but otherwise subject to the terms, provisions, covenants, and conditions hereof. Such "Reserved Parking Section" is more specifically shown and depicted on Exhibit G attached hereto and incorporated herein. All such Reserved Spaces shall be included as part of Allocated Parking Spaces otherwise available hereunder. Except for the Reserved Spaces as aforesaid, all parking spaces provided to Tenant shall be unreserved and are to be used by Tenant, and its employees and invitees, in common with the other tenants and occupants of the Building and the Project, and their respective employees and invitees, and subject in all events to the rules and regulations applicable to the Building and Project parking areas, as the same may be amended from time to time. Landlord reserves the right to build improvements upon, reduce the size of, relocate, reconfigure, eliminate, and/or make alterations or additions to such parking facilities at any time, and further reserves the right to tow or cause to be towed any violator(s) of the applicable parking rules and regulations, which towing shall be at the sole cost and expense of such violator(s). Landlord further reserves the right to regulate parking within the Common Areas, including the right to preclude Tenant from parking in certain parking spaces or requiring Tenant and its employees and invitees to park their cars only in areas specifically designated from time to time by Landlord for that purpose. Except for vehicles parked entirely within the Reserved Spaces, no overnight parking is allowed unless expressly otherwise authorized by Landlord. Automobile license numbers of Tenant's employees' cars shall be furnished to Landlord upon Landlord's request. Tenant shall not permit vehicles to be abandoned or stored in the parking areas. Without limitation of the terms, provisions, covenants, and conditions of Subsection 28(f) and Section 30 hereof, the use of any and all such parking spaces shall at all times be at the sole risk of Tenant, and its employees and invitees, and in no event shall Landlord have any liability whatsoever, whether to Tenant or to any such employees or invitees, or to any other party, for any damage to any automobiles, motor vehicles, or other property parked or otherwise located in or about the parking facilities serving the Property from time to time. If Tenant violates this Section 18 and such violation continues for twenty-four (24) hours after written notice from Landlord of such violation is delivered to Tenant, Tenant shall pay to Landlord a charge of Two Hundred Dollars (\$200.00) per day for each day that such violation continues thereafter.

19. **Condition of Premises.** Except as expressly provided to the contrary in this Lease, Tenant shall accept the Premises in its "AS IS", "WHERE IS", and "WITH ALL FAULTS" condition by taking possession of and/or occupying the Premises, and understands and agrees that Landlord shall not thereafter have any obligation to alter, remodel, improve, renovate, repair, decorate, or perform any other work, install any fixtures or equipment or render any services to make the Premises, the Building, the Property, and/or

the Project, or any part thereof, ready or suitable for Tenant's use and occupancy. In no event shall Tenant be entitled to compensation or any other damages or any other remedy against Landlord in the event the Premises, the Building, the Property, and/or the Project are not deemed suitable for Tenant's use.

20. **Tenant Buildout and Finishes.**

(a) Tenant will construct the Improvement Work and any Additional Work in the Premises at Tenant's sole cost and expense (subject to application of the Tenant Improvement Allowance) and in accordance with the Work Letter. Landlord is providing Tenant with the Tenant Improvement Allowance set forth in Item 10 of the Basic Lease Provisions and as otherwise provided in the Work Letter.

(b) Tenant shall be solely responsible for applying for, and obtaining, at Tenant's sole cost and expense, any certificate of occupancy and/or other governmental licenses or approvals required by the City and/or any other governmental entity or agency with jurisdiction thereof in connection with Tenant's use and occupancy of, or Tenant's business operations within, the Premises. In no event shall Landlord have any liability or responsibility for such certificate of occupancy and/or other governmental licenses or approvals, or for any costs or delays associated therewith.

21. **Force Majeure.** In the event of a strike, lockout, labor trouble, civil commotion, riot, insurrection, war, act of terrorism, act of God, governmentally ordered restriction or shutdown due to epidemic, pandemic, or other national, state, or municipal health emergency (including, by way of example and not limitation, COVID-19 and/or any variant thereof), condition of supply or demand which is affected by civil commotion, riot, insurrection, war, act of terrorism, act of God, governmentally ordered restrictions, closures, or shutdowns due to epidemic, pandemic, or other national, state, or municipal health or emergency, or any restrictive governmental Laws or regulations not in effect as of the Effective Date of this Lease, or any other event beyond the reasonable control of Landlord or Tenant, as the case may be (each, a "**Force Majeure Event**", and, collectively, "**Force Majeure Events**"), which results in Landlord or Tenant, as the case may be, being unable to timely perform any of its non-monetary obligations hereunder, whether to repair the Premises, provide services, perform other work, or otherwise, then, so long as Landlord or Tenant, as the case may be, diligently proceeds to perform such obligations after the end of such Force Majeure Event, Landlord or Tenant, as the case may be, shall not be in breach or default under this Lease and this Lease shall not terminate if, and for so long as, such Force Majeure Event renders Landlord or Tenant, as the case may be, unable to so perform such obligations hereunder; provided, however, notwithstanding anything in this Section 21 or elsewhere in this Lease to the contrary, (i) in no event shall Tenant's obligation to pay any Net Rent, Additional Rent, or any other charges and sums due and payable by Tenant hereunder, nor shall Landlord's obligation to pay any charges or sums due and payable by Landlord hereunder, be excused in connection with, or as a result of, any such Force Majeure Event, and (ii) reasons such as lack of money, financial inability, insolvency, and loss of, or reduction in, actual or projected revenues or income, whether temporary or permanent, and irrespective of cause, shall not constitute, or be deemed to constitute, a Force Majeure Event for purposes of this Lease.

E. **Repairs/Alterations/Casualty/Condemnation.**

22. **Repairs By Landlord.** Except for damage caused by casualty and condemnation (which shall be governed by Section 25 and Section 26, respectively, below), and subject to normal wear and tear, Landlord shall maintain in good condition and repair and in a manner consistent with Comparable Buildings the exterior walls, the exterior windows and window frames, roof, Common Areas, foundation, structural portions, elevators, and the base Building mechanical, electrical, plumbing, sprinkler, life safety, and HVAC systems and equipment (subject to inclusion of the costs thereof as part of Operating Expenses hereunder, except to the extent expressly excluded therefrom under Section 7 hereof). If any damage to the Building and/or the Property outside of the Premises or to any equipment or appurtenance thereto or any

part thereof results from any negligent act or omission, willful misconduct, or breach of Tenant's obligations under this Lease of or by Tenant or any other Tenant Party, Landlord may, at Landlord's option, make such repairs and replacements or undertake such maintenance at Tenant's sole cost and expense.

23. **Repairs By Tenant.** Except for Landlord's obligations as expressly set forth under Section 22 above, Tenant shall at all times, at Tenant's sole cost and expense, keep in good, safe, and sanitary condition, in compliance with all applicable Laws, and in good working order, condition, and repair, the Premises, including, without limitation, all property installed in the Premises by Tenant or any Tenant Parties at all times during the Term, subject to ordinary wear and tear, casualty, and condemnation. Without limitation of the foregoing, Tenant shall: (i) maintain in good order, condition, and repair at all times all of the improvements, fixtures, equipment, window coverings, furnishings, and appurtenances within the Premises (including all electrical, plumbing, and heating, ventilation, and air conditioning systems and equipment located within the Premises and providing service solely to the Premises); (ii) maintain in good order, condition, and repair at all times all telecommunications lines, cabling, and equipment of Tenant or any Tenant Parties installed in the Premises and/or the Building, including, without limitation, the Existing Sublease Removal Items (as hereinafter defined); and (iii) repair (or, at Landlord's option, reimburse Landlord for Landlord's actual cost of repairing) any damage caused to the portions of the Building and/or the Property located outside of the Premises to the extent arising from the acts or omissions of Tenant or any of the other Tenant Parties (including, without limitation, (a) the construction or installation of improvements in or to the Premises by, at the direction of, or on behalf of Tenant or any of the other Tenant Parties, and (b) the moving of any property into or out of the Premises and/or the Building by, at the direction of, or on behalf of Tenant or any of the other Tenant Parties). Notwithstanding the foregoing, Tenant shall not be obligated to make any structural alterations or capital improvements to the Premises or the Building to the extent required by any Laws which require generally that such structural alterations or capital improvements are required to be made to the Building as a whole (as distinguished from structural alterations, capital improvements, or other work made necessary by (y) Tenant's particular manner of use of the Premises, and not merely as a result of Tenant's general "office usage", or (z) any work, including, without limitation, Alterations, the Improvement Work, or any other work done in the Premises or the Building by or on behalf of Tenant or any other Tenant Parties, all of which shall be and remain the responsibility of Tenant). In the event that any such Tenant maintenance or repair work is required, Tenant shall promptly arrange for the same either through Landlord (if Landlord so agrees, and so long as Tenant reimburses Landlord for Landlord's actual costs), or if Tenant so elects, using such other contractors as Tenant shall select, subject to Landlord's prior written approval, not to be unreasonably withheld, conditioned, or delayed so long as such contractors are licensed, bonded, and insured union contractors capable of performing quality workmanship and capable of working in harmony with (and without disruption of) the contractors of Landlord and the other tenants and occupants of the Building. In the event that Tenant fails to perform any Tenant' maintenance or repair work as required above, Landlord, upon providing Tenant with such prior notice as is reasonable under the circumstances, may (but shall not be required to) perform such work at Tenant's expense, plus an administrative fee of ten percent (10%) of the actual costs thereof. Any and all work performed by or at the direction of Tenant or any Tenant Parties hereunder shall comply with Landlord's sustainability practices in effect from time to time.

24. **Alterations and Improvements/Liens.**

(a) Tenant shall not make or allow to be made any alterations, physical additions, or improvements (collectively, "**Alterations**") in or to the Premises without first obtaining in writing Landlord's written consent for such Alterations, which consent may be granted or withheld in Landlord's sole and absolute discretion if the Alterations will affect the Building structure or systems, will impact other tenants' premises, or will be visible from outside the Premises, but which consent shall not be unreasonably withheld otherwise. Tenant will deliver to Landlord plans and specifications for any proposed Alterations and shall reimburse Landlord for Landlord's reasonable cost to review such plans, and shall also pay to

Landlord a supervisory fee equal to five percent (5%) of the cost of the proposed Alterations. Any Alterations shall at once become the property of Landlord; provided, however, that Landlord, at its option, may require Tenant to remove any Alterations in order to restore the Premises to the condition existing on the Commencement Date (provided, if so requested by Tenant at the time Tenant submits its request for consent hereunder, Landlord shall notify Tenant at the time of Landlord's consent whether such Alterations will be required to be removed). All costs of any such Alterations shall be borne by Tenant. All Alterations shall be made in a good, first-class, workmanlike manner and in a manner that does not disturb other tenants (i.e., any loud work must be performed during times other than Normal Business Hours), and Tenant must maintain appropriate liability and builder's risk insurance throughout the construction. Without limiting in any way Tenant's obligations under any other provision of this Lease, Tenant shall, to the maximum extent permitted by applicable Law, indemnify, protect, defend (with counsel approved by Landlord), and hold Landlord and the other Landlord Parties harmless from and against any and all claims, damages, liabilities, losses, costs, and expenses of any nature whatsoever that Landlord may suffer or sustain which arise out of or relate to the performance of any such Alterations made by or on behalf of Tenant or any Tenant Parties. Under no circumstances shall Landlord be required to pay, during the Term of this Lease and any extensions or renewals thereof, any ad valorem or property tax on such Alterations, Tenant hereby covenanting to pay all such taxes when they become due. In the event that any Alterations are to be performed by contractors or workmen other than Landlord's contractors or workmen, any such contractors or workmen must first be approved, in writing, by Landlord (which approval will not be unreasonably withheld so long as such contractors are licensed, insured, bonded, and capable of performing quality workmanship and working in harmony with the contractors of Landlord and/or the Building). Landlord agrees to assign to Tenant any rights Landlord may have against the contractor of the Premises with respect to any work performed by such contractor in connection with Alterations made by Landlord at the request of Tenant. Any and all Alterations performed by or at the direction of Tenant hereunder shall comply with Landlord's sustainability practices in effect from time to time.

(b) Notwithstanding anything in this Section 24 to the contrary, but subject to all other terms, provisions, covenants, and conditions of this Lease, including, without limitation, the other terms, provisions, covenants, and conditions of this Section 24, and the rules and regulations of the Building in effect from time to time, Tenant shall be permitted to perform, without Landlord's prior consent and without the submission of plans and specifications therefor (except as otherwise required by applicable Law), but with reasonable advance written notice to Landlord, certain Alterations in and to the interior of the Premises, such as repairs, renovations, painting, decorating, recarpeting, and minor construction, so long as such Alterations (i) do not materially or adversely affect base Building systems or equipment, structural components of the Building, or the Common Areas, (ii) do not affect the premises of any other tenant or occupant of the Building, and (iii) do not require governmental permits or other approvals (collectively, "**Permitted Alterations**").

(c) Nothing contained in this Lease shall authorize or empower Tenant to do any act which shall in any way encumber Landlord's title to the Building, Property, or Premises, nor in any way subject Landlord's title to any claims by way of lien or encumbrance whether claimed by operation of Law or by virtue of any expressed or implied contract of Tenant, and any claim to a lien upon the Building or Premises arising from any act or omission of Tenant shall attach only against Tenant's interest and shall in all respects be subordinate to Landlord's title to the Building, Property, and Premises. If Tenant has not removed any such lien or encumbrance or, so long as Tenant is then contesting such lien or encumbrance diligently and in good faith, delivered to Landlord a title indemnity, bond, or other security reasonably satisfactory to Landlord, within thirty (30) days after written notice to Tenant by Landlord, Landlord may pay the amount necessary to remove such lien or encumbrance, without being responsible for making any investigation as to the validity thereof, and the amount so paid shall be deemed additional Rent reserved under this Lease due and payable forthwith.

25. **Destruction or Damage.**

(a) If the Building or the Premises are totally destroyed by storm, fire, earthquake, or other casualty, or damaged to the extent that, in Landlord's reasonable opinion, the damage cannot be restored within one hundred eighty (180) days of the date Landlord provides Tenant Landlord's Notice (as hereinafter defined), or if the damage is not fully covered by standard "all risk", "special form", or equivalent property insurance, or if the Landlord's lender requires that the insurance proceeds be applied to its loan, Landlord and Tenant shall each have the independent right to terminate this Lease effective as of the date of such destruction or damage, by written notice delivered to the other party on or before thirty (30) days following Landlord's Notice, and Rent shall be accounted for as between Landlord and Tenant as of that date. Landlord shall provide Tenant with written notice no later than sixty (60) days following the date of such damage ("**Landlord's Notice Period**"), of whether the loss is covered by Landlord's insurance coverage, whether or not Landlord's lender requires the insurance proceeds be applied to its loan, and whether Landlord intends to repair and restore the Building or the Premises, including the estimated time needed to restore ("**Landlord's Notice**"). If Landlord fails to deliver Landlord's Notice prior to expiration of the Landlord's Notice Period, Tenant may elect to terminate the Lease effective as of the date of such destruction or damage by written notice delivered to Landlord at any time thereafter but prior to the delivery of Landlord's Notice. If Landlord's Notice indicates Landlord's election not to repair the Building or the Premises, Tenant may elect to terminate the Lease effective as of the date of such destruction or damage by written notice to Landlord.

(b) If the Premises are damaged by any such casualty or casualties but neither party is entitled to or does not terminate this Lease as provided in Subsection 25(a) above, this Lease shall remain in full force and effect, Landlord shall deliver Landlord's Notice as aforesaid notifying Tenant that such damage will be restored (and will include Landlord's good faith estimate of the date the restoration will be complete), in which case Rent shall abate as to any portion of the Premises which is not usable for the period of such untenantability, and Landlord shall promptly commence to diligently restore the Premises (excluding, however, any items which Tenant is required to insure under Subsection 28(a)(ii) below) to substantially the same condition as before such damage occurred as soon as practicable, whereupon full Rent shall recommence. If Landlord fails to either commence such restoration within ninety (90) days following the date of the occurrence of such damage or destruction, or substantially complete such restoration or repairs within nine (9) months from the date of the occurrence of such damage or destruction, subject, in each case, to extension for Force Majeure Events, not to exceed an additional ninety (90) days, and delays attributable to the acts or omissions of Tenant or any Tenant Parties, Tenant may elect to terminate this Lease by written notice delivered to Landlord at any time thereafter, but prior to the commencement of such restoration or the substantial completion of such restoration, as the case may be. Landlord shall also have the right and option, to be exercised in Landlord's sole and absolute discretion, to offer to relocate Tenant to other space in the Building or the Project on a temporary basis during the performance of such restoration, for which Tenant shall have the right, but not the obligation, to accept, and in the event Tenant accepts said temporary space, the Rent abatement otherwise applicable hereunder shall not apply (but Rent shall be adjusted to account for the difference in rentable area between the Premises and such temporary space for the period of such temporary occupancy).

(c) If such damage occurs within the last twelve (12) months of the Term, either party shall have the right, upon delivery of written notice to the other party within thirty (30) days following such damage, to cancel and terminate this Lease as of the date of such damage, provided, however, that Tenant may not elect to terminate this Lease if such damage was caused by the intentional act of Tenant, its agents, servants, employees or invitees.

(d) Tenant agrees that Landlord's obligation to restore, and the abatement of Rent provided herein, or Tenant's right to terminate as above set forth in this Section 25, shall be Tenant's sole

recourse in the event of such damage, and waives any other rights Tenant may have under any applicable Law to terminate this Lease by reason of damage to the Premises or Property. If prior to any such election to terminate Tenant has elected to extend the Term pursuant to the terms, provisions, covenants, and conditions of this Lease and such election may not then according to its terms be rescinded or terminated, then for purposes of this Section 25 the Term shall be deemed to expire on such extended date.

(e) In no event shall either party hereto be liable to the other party hereto for loss of profits, or indirect, special, or consequential damages, arising out of the partial or total destruction or damage to the Building or Premises by fire or other casualty.

26. **Eminent Domain.** If the whole of the Building or Premises, or such portion thereof as will make the Building or Premises unusable in the reasonable judgment of Landlord for their intended purposes, is condemned or taken by any legally constituted authority for any public use or purpose, then in either of such events, this Lease shall terminate and the Term hereby granted shall cease from that time when possession thereof is taken by the condemning authorities, and Rent shall be accounted for as between Landlord and Tenant as of such date. If a portion of the Building or Premises is so taken, but not such amount as will make the Premises unusable in the reasonable judgment of Landlord for the purposes herein leased, or if this Lease has not terminated, this Lease shall continue in full force and effect and the Rent shall be reduced prorata in proportion to the amount of the Premises so taken. Tenant shall have no right or claim to any part of any award made to or received by Landlord for such condemnation or taking, and all awards for such condemnation or taking shall be made solely to Landlord, provided however that Tenant shall have the right to pursue any separate award for loss of its equipment and trade fixtures, for moving expenses, and for any other expenses or any other rights afforded Tenant by the condemning authority, so long as, in any case, such action does not reduce the award to which Landlord is entitled.

27. **Damage or Theft of Personal Property.** All personal property brought into the Premises shall be at the risk of Tenant and the Tenant Parties only, and Landlord shall not be liable for theft thereof or any damage thereto occasioned by any acts of co-tenants, other occupants of the Building, or any other person, except, with respect to damage to the Premises, to the extent caused by the negligent or willful act of Landlord or the other Landlord Parties (but subject to the insurance and waiver of subrogation provisions set forth in Section 28 below).

**F. Insurance/Indemnities/Waiver/Estoppel.**

28. **Insurance; Waivers.**

(a) Tenant covenants and agrees that from and after the date of delivery of the Premises from Landlord to Tenant, Tenant will carry and maintain, at its sole cost and expense, the following types of insurance, in the amounts specified and in the form hereinafter provided for:

(i) Commercial General Liability ("CGL") Insurance written on an occurrence basis, covering the Premises and all operations of the Tenant in or about the Premises, such coverage to include Tenant's contractors and subcontractors, against claims for bodily injury, property damage and product liability and to include contractual liability coverage insuring Tenant's indemnification obligations under this Lease, to be in combined single limits of not less than \$1,000,000 each occurrence for bodily injury and property damage, \$50,000 each occurrence for damage to rented premises, \$5,000 medical expenses (any one person), \$1,000,000 for personal and advertising injury, \$2,000,000 for products/completed operations aggregate, and \$1,000,000 for bodily injury and property damage combined for automobile liability covering all owned, leased, non-owned, hired, rented or borrowed vehicles and related equipment, and to have general aggregate limits of not less than \$2,000,000 (per location) and Umbrella Liability Insurance in an

amount not less than \$5,000,000 for each policy year. The general aggregate limits under the Commercial General Liability insurance policy or policies shall apply separately to the Premises and to Tenant's use thereof (and not to any other location or use of Tenant) and such policy shall contain an endorsement to that effect. The certificate of insurance evidencing the CGL form of policy shall specify all endorsements required herein and shall specify on the face thereof that the limits of such policy apply separately to the Premises.

(ii) Property insurance covering all of the items included in Tenant's leasehold improvements, including, without limitation, the Improvement Work and any Additional Work, additional or supplemental heating, ventilating, and air conditioning equipment or other utility equipment installed or maintained by Tenant or any of the other Tenant Parties (if any), trade fixtures, merchandise, equipment, inventory, furniture, furnishings, files, and personal property from time to time in, on or upon the Premises, Alterations made by Tenant or any Tenant Parties pursuant to Section 24, and the Existing Sublease Removal Items (collectively, "**Tenant's Insurable Property**"), in an amount not less than one hundred percent (100%) of their full replacement value from time to time during the Term, providing protection against perils included within the standard form of "all-risks", "special form", or equivalent fire and casualty insurance policy. Any policy proceeds from such insurance shall be held in trust by Tenant's insurance company for the repair, construction and restoration or replacement of the property damaged or destroyed unless this Lease shall cease and terminate under the terms, provisions, covenants, and conditions of Section 25 of this Lease.

(iii) Workers' Compensation and Employer's Liability insurance affording statutory coverage and containing statutory limits, but in no event less than \$500,000 for each accident, \$500,000 for disease - each employee, and \$500,000 for disease - policy limit.

(iv) Business Interruption Insurance equal to not less than fifty percent (50%) of the estimated gross earnings (as defined in the standard form of business interruption insurance policy) of Tenant at the Premises which insurance shall be issued on an "all risks" basis (or its equivalent).

(b) All policies of the insurance provided for in Subsection 28(a) above shall be issued in form acceptable to Landlord by insurance companies with a rating of "A-" and a financial size of "VI" in the most current available "Best's Insurance Reports" issued by A.M. Best Company, and licensed to do business in the state in which the Building is located. Each and every such policy:

(i) shall, with respect to the insurance described in Subsection 28(a)(i) above, name Landlord, FCA-IV, LLC, FCA Partners, LLC, their respective subsidiary and affiliate companies, the respective employees, officers, directors, and agents of such companies, any mortgagee of Landlord, and any other parties reasonably designated in written notice from Landlord from time to time (collectively, the "**Landlord Insureds**") as additional insureds, and shall, with respect to the insurance described in Subsection 28(a)(ii) above, name the Landlord Insureds as loss payees thereunder;

(ii) shall (and a certificate thereof, including all applicable endorsements, shall be delivered to Landlord at or prior to the execution of this Lease) be delivered to Landlord and such Landlord Insureds prior to delivery of possession of the Premises to Tenant, and thereafter no later than ten (10) days prior to the inception (or renewal) of each new policy, and as often as any such policy shall expire or terminate. Renewal or additional policies shall be procured and maintained by Tenant in like manner and to like extent;

(iii) shall contain a provision that the insurer will give to Landlord and such Landlord Insureds at least thirty (30) days' notice in writing (and ten (10) days' notice in the case of non-payment) in advance of any material change, cancellation, termination or lapse, or the effective date of any reduction in the amounts of insurance (and shall include an endorsement to this effect), provided, however, in the event that such insurer fails or refuses to include such notice provision, then Tenant shall be required to provide such notice to Landlord at the time and in the manner set forth herein; and

(iv) shall be written as a primary policy which does not contribute to and is not in excess of coverage which Landlord may carry.

(c) Any insurance provided for in Subsection 28(a) may be maintained by means of a policy or policies of blanket insurance, covering additional items or locations or insureds, provided, however, that: (i) Landlord and the Landlord Insureds shall be named as additional insureds thereunder as their interests may appear; (ii) the coverage afforded Landlord and the Landlord Insureds will not be reduced or diminished by reason of the use of such blanket policy of insurance; and (iii) the requirements set forth in this Section 28 are otherwise satisfied.

(d) The issuance or maintenance of insurance of any type by Tenant hereunder will not be deemed or construed to release, limit, waive, or discharge Tenant from any of the obligations and risks imposed by this Lease or by applicable Law upon Tenant. Neither failure by Landlord to require proof of insurance from Tenant, nor the contents of a certificate of insurance provided by Tenant, shall be deemed a waiver or reduction of Landlord's or any other additional insured's rights or Tenant's obligations regarding the provision of insurance under this Lease. The insurance requirements set forth herein are minimum requirements for this Lease and shall in no way limit, or be deemed to limit, the indemnity covenants contained in this Lease. Landlord in no way represents or warrants that the minimum limits contained herein are sufficient to protect Tenant from liabilities that might arise out of this Lease, or the performance of the obligations of Tenant or any of the Tenant Parties hereunder, and Tenant is free to purchase such additional insurance as Tenant may determine is necessary or prudent. On insurance policies where Landlord is named as an additional insured, Landlord shall be an additional insured to the full limits of liability purchased by Tenant, even if those limits of liability are in excess of those required under this Lease.

(e) During the Term hereof, Landlord shall in a manner comparable to other Comparable Buildings keep in effect (i) "all risk", "special form", or equivalent commercial property insurance on the Building, its fixtures and equipment (excluding, however, any of the items required to be insured by Tenant under Subsection 28(a)(ii) above, or similar items required to be insured by other tenants or occupants of the Building), and rent loss insurance on prevailing, commercially available terms for a period and amount of not less than one (1) year of rent (such commercial property insurance policy shall, at a minimum, cover the perils insured under the ISO special causes of loss form which provides "all risk", "special form", or equivalent coverage, and include replacement cost coverage), and (ii) a policy or policies of CGL insurance insuring against liability arising out of the risks of death, bodily injury, property damage and personal injury liability with respect to the Building and Property.

(f) Notwithstanding anything to the contrary set forth hereinabove, Landlord and Tenant do hereby waive any and all claims against one another for damage to or destruction of real or personal property to the extent such damage or destruction is or can be covered by "all risk", "special form", or equivalent property insurance of the type described in Subsection 28(a)(ii) and Subsection 28(e)(i) above. The risk to be borne by each party shall also include the satisfaction of any deductible amounts required to be paid under the applicable "all risk", "special form", or equivalent property insurance carried by the party whose property is damaged, and each party agrees that the other party shall not be responsible for satisfaction of such deductible. These waivers shall apply if the damage would have been covered by a

customary "all risk", "special form", or equivalent insurance policy, even if the party fails to obtain such coverage. The intent of this provision is that each party shall look solely to its insurance with respect to property damage or destruction which is or can be covered by "all risk", "special form", or equivalent insurance of the type described in Subsection 28(a)(ii) and Subsection 28(e)(i). Each such policy shall include a waiver of all rights of subrogation by the insurance carrier against the other party, its agents and employees, with respect to property damage covered by the applicable "all risk", "special form", or equivalent property insurance policy. In addition to the foregoing, the referenced CGL and worker's compensation policies shall contain a waiver of subrogation endorsement in favor of Landlord and the Landlord Insureds.

(g) Notwithstanding anything herein to the contrary, so long as the named Tenant hereunder is and remains the City of Chicago, Tenant may elect to self-insure to meet the requirements provided for in Subsection 28(a) above, and in the event of such election: (i) Tenant shall provide a self-insurance letter to Landlord confirming the same; (ii) Tenant shall be deemed to be an insurer for purposes hereof and shall be and remain subject to all of the applicable terms, provisions, covenants, and conditions of this Lease, including, without limitation, the waiver, indemnification, and waiver of subrogation provisions hereof; and (iii) Tenant's indemnification obligations hereunder shall extend to and include any and all losses, costs, damages, expenses, liens, claims, proceedings, actions, suits, and liabilities (including, without limitation, court costs and reasonable attorneys' fees and expenses) incurred in connection with or arising from matters which Landlord would have been indemnified and protected against under the insurance policies Tenant is required to maintain as provided in Subsection 28(a) above but which is not covered by insurance policies due to self-insurance by Tenant as provided herein.

29. **Indemnities.** To the maximum extent permitted by applicable Law, Tenant shall and does hereby indemnify, defend, protect, and hold harmless Landlord and the other Landlord Parties from and against any and all losses, costs, damages, expenses, liens, claims, proceedings, actions, suits, and liabilities (including, without limitation, court costs and reasonable attorneys' fees and expenses) incurred in connection with or arising from (a) any cause sustained in, on, or about the Premises, (b) any negligence or willful misconduct of Tenant or any of the other Tenant Parties, or of any person claiming by, through, or under any of them, and/or (c) any breach, violation, or non-performance of any obligation of Tenant under this Lease; provided, however, that the terms of the foregoing indemnity shall not apply to the extent of any gross negligence or willful misconduct of Landlord or any of the other Landlord Parties. To the maximum extent permitted by applicable Law, Landlord shall and does hereby indemnify, defend, protect, and hold harmless Tenant and the other Tenant Parties from and against any and all losses, costs, damages, expenses, liens, claims, proceedings, actions, suits, and liabilities (including, without limitation, court costs and reasonable attorneys' fees and expenses) incurred in connection with or arising from (i) any cause sustained in, on, or about the Common Areas of the Building or the Project (specifically excluding, however, the Premises and the premises of any other tenant or occupant of the Building or the Project), (ii) any negligence or willful misconduct of Landlord or any of the other Landlord Parties, or of any person claiming by, through, or under any of them, and/or (iii) any breach, violation, or non-performance of any obligation of Landlord under this Lease; provided, however, that the terms of the foregoing indemnity shall not apply to the extent of any gross negligence or willful misconduct of Tenant or any of the other Tenant Parties. The terms, provisions, covenants, and conditions of this Section 29 shall survive the expiration or sooner termination of this Lease with respect to any claims or liability occurring prior to such expiration or termination. The indemnities contained in this Section 29 do not override the waivers contained in Subsection 28(f) above.

30. **Acceptance and Waiver.**

(a) Except in the case of death or bodily injury to the extent caused by the negligence or willful misconduct of Landlord or the other Landlord Parties (but subject to the insurance provisions in

Section 28 above), Landlord shall not be liable to Tenant or any of the Tenant Parties for any damage caused to any of them due to the Building or the Property, or any part or appurtenances thereof, being improperly constructed or being or becoming out of repair, or arising from the leaking of gas, water, sewer or steam pipes, or from electricity, and Tenant, by moving into the Premises and taking possession thereof, shall accept, and shall be held to have accepted the Premises as suitable for the purposes for which the same are leased, and shall accept and shall be held to have accepted the Building and the Property, and every appurtenances thereof, and Tenant by said act waives any and all defects therein; provided, however, that this Section 30 shall not preclude Tenant from seeking recovery from any third party responsible for such damage or injury.

(b) Tenant hereby acknowledges and agrees that neither Landlord nor any of the other Landlord Parties has made or is making, and Tenant, in executing and delivering this Lease, is not relying upon, any warranties, representations, promises, or statements regarding the condition of the Premises, the Building, the Property, and/or the Project, except to the extent that the same are expressly set forth in this Lease. No warranties, express or implied, are made regarding the condition or suitability of the Premises, the Building, the Property, and/or the Project on the Commencement Date. Further, to the maximum extent permitted by applicable Law, Tenant hereby waives any implied warranty of suitability, habitability, or other implied warranties that Landlord will maintain or repair the Premises, the Building, the Property, and/or the Project, or any appurtenances thereto, except for Landlord's maintenance, repair, and other obligations as otherwise expressly set forth under this Lease. All understandings and agreements heretofore had between the parties are merged in this Lease and any other written agreement(s) made concurrently herewith, which alone fully and completely express the agreement of the parties and which are entered into after full investigation, neither party relying upon any statement or representation not expressly embodied in this Lease or any other written agreement(s) made concurrently herewith.

31. **Estoppel.**

(a) Tenant shall, from time to time, upon not less than ten (10) days' prior written request by Landlord, execute, acknowledge and deliver to Landlord a written statement certifying (i) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified and stating the modifications), (ii) the dates to which the Rent has been paid, (iii) that Tenant is not then in default hereunder, (iv) whether Tenant has any offsets or defenses against Landlord under this Lease, (v) whether or not, to the best of Tenant's knowledge, Landlord is in default hereunder (and if so, specifying the nature of the default), and (vi) such other matters as Landlord or any lender or prospective purchaser might request, it being intended that any such statement delivered pursuant to this Section 31 may be relied upon by a prospective purchaser of Landlord's interest or by a mortgagee of Landlord's interest or assignee of any security deed upon Landlord's interest in the Premises.

(b) Landlord shall, from time to time, upon not less than ten (10) days' prior written request by Tenant, execute, acknowledge and deliver to Tenant a written statement certifying (i) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified and stating the modifications), (ii) the dates to which the Rent has been paid, (iii) that Landlord is not then in default hereunder, (iv) whether Landlord has any offsets or defenses against Tenant under this Lease, (v) whether or not, to the best of Landlord's knowledge, Tenant is in default hereunder (and if so, specifying the nature of the default), and (vi) such other matters as Tenant or any lender or prospective purchaser might request, it being intended that any such statement delivered pursuant to this Section 31 may be relied upon by a lender or prospective purchaser.

**G. Default/Remedies/Surrender/Holding Over.**

32. **Notices.** Any notice which is required or permitted to be given by either party under this Lease shall be in writing and must be given only by (a) U.S. certified mail (proper postage prepaid and return receipt requested), (b) hand delivery, or (c) nationally recognized commercial overnight delivery service at the addresses set forth in Item 13 of the Basic Lease Provisions. Each party shall further use reasonable efforts to provide the other party with a courtesy copy of any notice by facsimile and/or by electronic mail. Any such notice shall be deemed given (i) if sent by U.S. certified mail, upon the earlier of two (2) business days after postmark or receipt or refusal to accept (or upon notice of undeliverability, if applicable), (ii) if sent by hand delivery, upon receipt or refusal to accept, or (iii) if sent by nationally recognized commercial overnight delivery service, upon the earlier of the next business day after deposit or receipt or refusal to accept, provided that receipt of notice solely by facsimile or electronic mail shall not be deemed to be delivery of notice hereunder. The time period for responding to any such notice shall begin on the date the notice is actually received, but refusal to accept delivery or inability to accomplish delivery because the party can no longer be found at the then current notice address shall be deemed receipt. Either party may change its notice address by notice to the other party in accordance with the terms of this Section 32. The initial notice addresses for each party are set forth in Item 13 of the Basic Lease Provisions. In the case of any emergency situation or routine operational issues, notice may be provided to Tenant's designated emergency contact set forth in Item 13 of the Basic Lease Provisions, and such notice shall be deemed sufficient for purposes thereof.

33. **Abandonment of Premises.** Tenant agrees not to abandon or vacate the Premises during the Term of this Lease. If Tenant does abandon or vacate the Premises for more than ninety (90) days, Landlord may terminate this Lease, by written notice to Tenant at any time prior to Tenant reoccupying the Premises, but such termination shall not entitle Landlord to pursue any other remedies unless an uncured default then exists, in which case Landlord may pursue any and all remedies provided by this Lease, at law, or in equity.

34. **Default.**

(a) If: (i) Tenant shall default in the payment of Rent herein reserved when due; (ii) Tenant shall be in default in performing any of the terms, provisions, covenants, or conditions of this Lease other than the provisions requiring the payment of Rent, and fails to cure such non-monetary default within thirty (30) days after written notice of such default is given to Tenant by Landlord (provided, however, that if such non-monetary default is of such a nature that it cannot through the exercise of diligent and reasonable efforts be cured within thirty (30) days, then Tenant shall not be in default in such instance if Tenant commences to cure within such 30-day period and thereafter diligently and continuously pursues the cure of such non-monetary default to completion as soon as reasonably possible, subject in all cases to Force Majeure Events and delays attributable to the acts or omissions of Landlord or any of the other Landlord Parties); (iii) Tenant is adjudicated a bankrupt; (iv) a permanent receiver is appointed for Tenant's property and such receiver is not removed within sixty (60) days after appointment thereof; (v) whether voluntarily or involuntarily, Tenant takes advantage of any debtor relief proceedings under any present or future Laws, whereby the Rent or any part thereof, is, or is proposed to be, reduced or payment thereof deferred, or if Tenant seeks to transfer all or substantially all of its assets pursuant to a UCC sale or similar method; or (vi) Tenant's effects should be levied upon or attached and such levy or attachment is not satisfied or dissolved within thirty (30) days after such levy or attachment, then, and in any of such events, Landlord, at its option, may exercise any or all of the remedies set forth in Section 35 below.

(b) In the event of a Landlord default hereunder, Tenant shall notify Landlord in writing of any alleged breach of Landlord's obligations under this Lease and shall take no action with respect to such breach as long as Landlord promptly commences to cure such breach within thirty (30) days (or as

soon as reasonably practicable in the event of an emergency) following Landlord's receipt of Tenant's written notice thereof and thereafter diligently proceeds to complete the cure of said breach within a reasonable time period, subject in all cases to Force Majeure Events and delays attributable to the acts or omissions of Tenant or any of the other Tenant Parties.

35. **Landlord's Remedies.** Upon the occurrence of any default set forth in Section 34 above which is not cured by Tenant within the applicable cure period provided therein, if any, Landlord may exercise all or any of the following remedies:

(a) terminate this Lease by giving Tenant written notice of termination, in which event this Lease shall terminate on the date specified in such notice and all rights of Tenant under this Lease shall expire and terminate as of such date, Tenant shall remain liable for all obligations under this Lease up to the date of such termination and Tenant shall surrender the Premises to Landlord on the date specified in such notice; and if Tenant fails to so surrender, Landlord shall have the right, without notice, to enter upon and take possession of the Premises and to expel and remove Tenant and its effects without being liable for prosecution or any claim of damages therefor;

(b) terminate this Lease as provided in the immediately preceding Subsection 35(a) and recover from Tenant all damages Landlord may incur by reason of Tenant's default, including without limitation, (i) the then present value (discounted at a rate equal to the then issued treasury bill having a maturity approximately equal to the remaining Term of this Lease had such default not occurred) of (A) the total Rent which would have been payable hereunder by Tenant for the period beginning with the day following the date of such termination and ending with the Expiration Date of the Term as originally scheduled hereunder, minus (B) the aggregate reasonable rental value of the Premises for the same period (as determined by a real estate broker selected by Landlord who is licensed in the state where the Building is located, who has at least ten (10) years' experience immediately prior to the date in question in evaluating commercial office space, taking into account all relevant factors including, without limitation, the length of the remaining Term, the then current market conditions in the general area, the likelihood of reletting for a period equal to the remainder of the Term, net effective rates then being obtained by landlords for similar type space in Comparable Buildings, vacancy levels in the general area, current levels of new construction in the general area and how that would affect vacancy and rental rates during the period equal to the remainder of the Term and inflation), plus (ii) the costs of recovering the Premises, and all other expenses incurred by Landlord due to Tenant's default, including, without limitation, reasonable attorneys' fees, plus (iii) the unpaid Rent earned as of the date of termination, plus interest, all of which sum shall be immediately due and payable by Tenant to Landlord;

(c) without terminating this Lease, and without notice to Tenant, Landlord may enter into and take possession of the Premises and re-let the Premises, or any portion thereof, upon any terms and conditions as Landlord may deem necessary or desirable (Landlord shall have no obligation to attempt to re-let the Premises or any part thereof except to the extent required by applicable Law). Upon any such re-letting, all rentals received by Landlord from such re-letting shall be applied first to the costs incurred by Landlord in accomplishing any such re-letting, and thereafter shall be applied to the Rent owed by Tenant to Landlord during the remainder of the Term of this Lease and Tenant shall pay any deficiency between the remaining Rent due hereunder and the amount received by such re-letting as and when due hereunder;

(d) allow the Premises to remain unoccupied (so long as Landlord satisfies any duty established by applicable Law to mitigate its damages) and collect Rent from Tenant as it becomes due; or

(e) pursue such other remedies as are available at Law or in equity.

36. **Service of Notice.** Except as otherwise provided by applicable Law, Tenant hereby appoints as its agent to receive the service of all dispossession or distraint proceedings and notices thereunder, the person in charge of or occupying the Premises at the time of such proceeding or notice; and if no person be in charge or occupying the Premises, then such service may be made by attaching the same to the front entrance of the Premises.

37. **Advertising.** Landlord may advertise the Premises as being "For Rent" and/or otherwise market the Premises for lease to third parties at any time (a) following a default by Tenant which remains uncured following the expiration of any applicable notice and cure period, and/or (b) within one hundred eighty (180) days prior to the expiration, cancellation, or termination of this Lease for any reason, and during any such periods Landlord may exhibit the Premises to prospective tenants upon reasonable prior notice to Tenant (except that such prior notice shall not be required in the case of Clause (a) above).

38. **Surrender of Premises.** Whenever under the terms, provisions, covenants, or conditions hereof Landlord is entitled to possession of the Premises, Tenant at once shall surrender the Premises and the keys thereto to Landlord in the same condition as on the Commencement Date hereof, normal wear and tear only excepted, and Tenant shall: (a) remove all of its furniture, furnishings, trade fixtures, equipment, inventory, and personal property therefrom; (b) remove all of the items specifically identified on Exhibit H attached hereto and incorporated herein therefrom (collectively, the "**Existing Sublease Removal Items**") and restore the affected portions of the Premises to the condition existing prior to the installation thereof; (c) if directed to do so by Landlord in accordance with Section 24 hereof, remove such Alterations as Landlord shall so direct and restore the affected portions of the Premises to the condition existing prior to the installation thereof; and (d) remove such components of the initial Improvement Work as Landlord may direct upon written notice to Tenant at the time Landlord approves the initial Plans therefor, or any revisions or modifications thereof, and restore the affected portions of the Premises to the condition existing prior to the installation thereof. In addition, unless otherwise directed in writing by Landlord, Tenant shall be required to remove any and all voice and data cabling and wiring, as well as any and all low-voltage cabling, installed in the Premises or in the Building's risers by or at the direction of Tenant or any Tenant Parties or otherwise used in connection with the Premises or Tenant's occupancy thereof. Tenant shall dispose of in an environmentally sustainable manner any furniture, furnishings, trade fixtures, equipment, inventory, personal property, or materials no longer needed by Tenant, and shall recycle or re-use the same in accordance with Landlord's sustainability practices then in effect. Landlord may forthwith reenter the Premises and repossess itself thereof and remove all persons, furniture, furnishings, trade fixtures, equipment, inventory, and personal property therefrom, without being guilty of forcible entry, detainer, trespass, or other tort. Tenant's obligation to observe or perform these covenants shall survive the expiration or other termination of this Lease. If the last day of the Term of this Lease or any renewal or extension thereof falls on a Saturday, Sunday, or a legal holiday, this Lease shall expire on the business day immediately preceding.

39. **Cleaning Premises.** Upon vacating the Premises, Tenant agrees to return the Premises to Landlord broom clean and in the same condition when Tenant's possession commenced, natural wear and tear excepted, regardless of whether any Security Deposit has been forfeited. In addition, Tenant shall be solely responsible for performing, at Tenant's sole cost and expense, any and all janitorial, cleaning, disinfection, and/or sanitization services that Tenant may deem necessary or appropriate in and to the Premises and/or the Building which are in addition to, or in excess of, the services required to be provided under Section 15 hereof, whether the same are required, recommended, or otherwise encouraged by applicable Laws or governmental directives or orders, or by the guidelines or recommendations of the CDC and/or any other Federal, State, county, municipal, or other governing authorities, departments, commissions, agencies, or boards with jurisdiction thereof or that may be applicable with respect thereto, or otherwise.

40. **Removal of Trade Fixtures.** If Tenant is not in default hereunder, Tenant may, prior to the expiration of the Term of this Lease, or any extension thereof, remove any furniture, furnishings, trade fixtures, equipment, inventory, and personal property which Tenant has placed in the Premises which can be removed without significant damage to the Premises or the Building, provided Tenant promptly repairs all damages to the Premises and the Building caused by such removal.

41. **Holding Over.** In the event Tenant remains in possession of the Premises after the expiration of the Term hereof, or of any renewal term, Tenant shall be a tenant at sufferance and may be evicted by Landlord at any time in accordance with applicable Law. Any such tenancy shall be subject to all the terms, provisions, covenants, and conditions of this Lease, except that the monthly rental shall be at one hundred fifty percent (150%) of the monthly Net Rent and Additional Rent payable hereunder upon such expiration of the Term hereof, or of any renewal term, which monthly rental shall increase from one hundred fifty percent (150%) to two hundred percent (200%) of such monthly Net Rent and Additional Rent if such holding over continues more than thirty (30) days. Tenant shall also be liable for any and all other damages Landlord suffers as a result of such holdover, including, without limitation, the loss (or damages or penalties payable to) of a prospective or actual tenant for such space (provided, however, that Tenant shall not be liable for consequential damages hereunder unless such holding over continues for more than thirty (30) days). There shall be no renewal of this Lease by operation of Law or otherwise. Nothing in this Section 41 shall be construed as a consent by Landlord for any holding over by Tenant after the expiration of the Term hereof, or any renewal term.

42. **Attorneys' Fees.** In the event of any action, suit or proceeding brought by Landlord or Tenant to enforce any of the other's covenants and agreements in this Lease, the prevailing party shall be entitled to recover from the non-prevailing party any costs, expenses and reasonable attorneys' fees incurred in connection with such action, suit or proceeding. Subject to the terms, provisions, covenants, and conditions hereof, Tenant shall pay all actual and reasonable costs, expenses, and attorneys' fees incurred or paid by Landlord in connection with any requests by Tenant for any consents, waivers, acknowledgements, estoppels, or other documentation hereunder; provided, however, that Tenant's reimbursement obligation under this Section 42 shall not exceed an aggregate amount of Three Thousand and No/100 Dollars (\$3,000.00) per each individual request by Tenant.

43. **Mortgagee's Rights.**

(a) Tenant agrees that this Lease shall be subject and subordinate to: (i) any mortgage, deed of trust, or other security interest now encumbering the Property, and to all advances which may be hereafter made thereto, to the full extent of all debts and charges secured thereby, and to all renewals, extensions, amendments, and modifications of any part thereof, and to any mortgage, deed of trust, or other security interest which any owner of the Property may hereafter, at any time, elect to place on the Property; (ii) any assignment of Landlord's interest in the leases and rents from the Building or Property which includes this Lease which now exists or which any owner of the Property may hereafter, at any time, elect to place on the Property; and (iii) any Uniform Commercial Code Financing Statement covering the personal property rights of Landlord or any owner of the Property which now exists or any owner of the Property may hereafter, at any time, elect to place on the foregoing personal property (all of the foregoing instruments set forth in Clauses (i), (ii), and (iii) above being hereafter collectively referred to as "**Security Documents**"). Tenant agrees upon request of the holder of any Security Documents ("**Holder**") to hereafter execute any documents, including, without limitation, a subordination and attornment agreement, which the counsel for Landlord or Holder may reasonably deem necessary to evidence the subordination of this Lease to the Security Documents. If Tenant fails to execute any such requested documents within ten (10) days following written request therefor, Landlord or Holder is hereby empowered to execute such documents in the name of Tenant evidencing such subordination, as the act and deed of Tenant, and this authority is hereby declared to be coupled with an interest and not revocable.

(b) In the event of a foreclosure pursuant to any Security Documents, Tenant shall, at the election of Landlord, thereafter remain bound pursuant to the terms of this Lease as if a new and identical Lease between the purchaser at such foreclosure ("**Purchaser**"), as landlord, and Tenant, as tenant, had been entered into for the remainder of the Term hereof, and Tenant shall attorn to the Purchaser upon such foreclosure sale and shall recognize such Purchaser as the Landlord under this Lease. Such attornment shall be effective and self-operative without the execution of any further instrument on the part of any of the parties hereto. Tenant agrees, however, to execute and deliver at any time and from time to time, upon the request of Landlord or of Holder, any instrument or certificate that may be necessary or appropriate in any such foreclosure proceeding or otherwise to evidence such attornment.

(c) If the Holder of any Security Document or the Purchaser upon the foreclosure of any of the Security Documents shall succeed to the interest of Landlord under this Lease, such Holder or Purchaser shall have the same remedies, by entry, action or otherwise for the non-performance of any agreement contained in this Lease, for the recovery of Rent or for any other default or event of default hereunder that Landlord had or would have had if any such Holder or Purchaser had not succeeded to the interest of Landlord. Any such Holder or Purchaser which succeeds to the interest of Landlord hereunder, shall not be: (i) liable for any act or omission of any prior Landlord (including Landlord) unless such act or omission is of a continuing nature; (ii) subject to any offsets or defenses which Tenant might have against any prior Landlord (including Landlord); (iii) bound by any Rent which Tenant might have paid for more than the current month to any prior Landlord (including Landlord); (iv) bound by any amendment or modification of this Lease made without its consent; or (v) required to return any security deposit unless such security deposit has been actually received in cash by such Holder or Purchaser.

(d) Notwithstanding anything to the contrary set forth in this Section 43, the Holder of any Security Documents shall have the right, at any time, to elect to make this Lease superior and prior to its Security Document. No documentation, other than written notice to Tenant, shall be required to evidence that this Lease has been made superior and prior to such Security Documents, but Tenant hereby agrees to execute any documents reasonably requested by Landlord or Holder to acknowledge that this Lease has been made superior and prior to the Security Documents.

(e) Notwithstanding anything to the contrary contained in this Section 43, before Tenant makes any payment to any Holder or Purchaser, Tenant's standard municipal procedures may require that such Holder or Purchaser submit such applicable disclosure forms as may be reasonably and uniformly required by Tenant from municipal vendors. Any change in payee (e.g., from Landlord to Holder or Purchaser) may result in a delay of payments of at least one (1) month. Any initial payment to a Holder or Purchaser that is delayed by not more than one (1) month shall not be subject to a late charge. Landlord shall advise all Holders and Purchasers of the provisions of this Subsection 43(e).

(f) Notwithstanding anything to the contrary contained in this Section 43, Landlord represents to Tenant that there are no Security Documents affecting the Building in existence as of the Effective Date of this Lease. In the event of any Security Documents encumbering the Building first entered into by Landlord after the Effective Date hereof, Landlord shall use commercially reasonable efforts to obtain a subordination, non-disturbance, and attornment agreement ("**SNDA**") for the benefit of Tenant hereunder, which SNDA shall be based upon such Holder's standard form thereof, with such modifications thereto as may be mutually and reasonably agreed upon by the parties thereto; provided, however, that (i) in no event shall Landlord have any liability whatsoever if such Holder fails or refuses to provide such SNDA hereunder, and the terms, provisions, covenants, and conditions of this Section 43 shall not be modified or affected thereby, and (ii) unless Tenant agrees in writing to forego such SNDA, Tenant shall be responsible for the payment of any and all charges and fees imposed by such Holder in connection with such SNDA (which charges and fees shall be deemed additional Rent under, and for purposes of, this Lease,

and shall be due and payable to Landlord within thirty (30) days following Tenant's receipt of Landlord's invoice therefor).

**H. Landlord Entry/Relocation/Assignment and Subletting.**

44. **Entering Premises.** Landlord may enter the Premises at reasonable hours upon reasonable prior notice to Tenant (provided, however, that (i) if in the opinion of Landlord any emergency exists, such entry may be had at any time and without prior notice, and (ii) prior notice shall not be required in the case of routine services): (a) to make repairs, perform maintenance, and/or provide other services described in Section 22 above which Landlord is obligated to make to the Premises or the Building pursuant to the terms, provisions, covenants, or conditions of this Lease or to the other premises within the Building pursuant to the leases of other tenants; (b) to inspect the Premises in order to confirm that Tenant is complying with all of the terms, provisions, covenants, and conditions of this Lease and with the rules and regulations applicable hereunder; (c) to remove from the Premises any articles or signs kept or exhibited therein in violation of the terms, provisions, covenants, or conditions hereof; (d) to run pipes, conduits, ducts, wiring, cabling, and/or any other mechanical, electrical, plumbing, life safety, and/or HVAC systems and equipment through the areas behind the walls, below the floors, or above the drop ceilings in the Premises and elsewhere in the Building; and (e) to exercise any other right or perform any other obligation that Landlord has under this Lease. Landlord shall be allowed to take all materials and equipment into and upon the Premises that may be required to make any such repairs, improvements, additions, or alterations hereunder, without in any way being deemed or held guilty of trespass and without constituting a constructive eviction hereunder. Landlord shall use commercially reasonable efforts to perform such repairs, improvements, additions, and alterations in a manner so as to minimize any material interference with the use or occupancy of the Premises. The Rent reserved herein shall not abate while such repairs, improvements, additions, or alterations are being made, and Tenant shall not be entitled to maintain a set-off or counterclaim for damages against Landlord by reason of loss from interruption to the business of Tenant or any Tenant parties because of the prosecution of any such work or otherwise. All such repairs, improvements, additions, or alterations shall be done during Normal Business Hours; provided, however, that (a) any work that is unreasonably loud or disruptive such that it would unreasonably interfere with the use of the Premises if performed during Normal Business Hours (herein, "**Disruptive Work**") shall be performed by Landlord during times other than Normal Business Hours at no additional cost or expense to Tenant, and (b) any work that is not Disruptive Work shall, at the request of Tenant, be performed by Landlord during times other than Normal Business Hours so long Tenant shall pay all overtime and other extra costs associated therewith.

45. **Relocation.** [Intentionally Omitted]

46. **Assignment and Subletting.**

(a) Tenant may not, without the prior written consent of Landlord in each instance, which consent shall not be unreasonably withheld, conditioned, or delayed, assign this Lease or any interest hereunder, or sublet the Premises or any part thereof, or permit the use or occupancy of the Premises by any party other than Tenant and the Tenant Parties (subject, however, to this Section 46 in the case of assignees and subtenants). Without limitation, and notwithstanding any terms, provisions, covenants, or conditions of this Section 46 to the contrary, it shall be deemed reasonable for Landlord to withhold its consent to a proposed assignment or sublease hereunder if: (i) the transferee is of a character or reputation or engaged in a business which is not consistent with the quality or nature of the Property or other tenants of the Property; (ii) the transferee intends to use the Premises or any portion thereof for purposes which are not permitted under this Lease; (iii) the transferee is a governmental entity (or any agency or instrumentality thereof); (iv) the proposed transferee or any affiliate thereof is a tenant or occupant of the Property; (v) the proposed transferee is not financially able to perform the obligations to be assumed by such transferee in

connection with the proposed assignment or sublease; (vi) the transfer involves a partial or collateral assignment, or a mortgage, pledge, hypothecation, or other encumbrance or lien on this Lease, or a transfer by operation of Law; (vii) the proposed assignment or sublease would cause Landlord to be in violation of any Laws or any other lease, mortgage, or agreement to which Landlord is a party, would give a tenant of the Property a right to cancel its lease, or would create adverse tax consequences for Landlord; (viii) Tenant has committed and failed to cure a default under this Lease; or (ix) the proposed transferee, or the proposed use or operation in the Premises by such transferee, may or will cause the Building, or any part thereof, not to conform with the environmental or sustainability provisions set forth in this Lease.

(b) In the event that Tenant is a corporation, partnership, limited liability company, or other entity (and not an individual), any transfer of a majority or controlling interest in Tenant (whether by stock transfer, merger, operation of Law, sale, or otherwise) shall be considered an assignment for purposes of this Section 46 and shall require Landlord's prior written consent as aforesaid. Consent to one assignment or sublease shall not destroy or waive this provision or be deemed consent to any subsequent assignment or sublease, and all later assignments and subleases shall likewise be made only upon the prior written consent of Landlord. Subtenants or assignees shall become liable to Landlord for all obligations of Tenant hereunder, without relieving Tenant's liability hereunder, and in the event of any default by Tenant under this Lease, Landlord may, at its option, but without any obligation to do so, elect to treat such sublease or assignment as a direct lease with Landlord and collect rent directly from the subtenant. In addition, upon any request by Tenant for Landlord's consent to an assignment or sublease, Landlord may elect to terminate this Lease and recapture all of the Premises (in the event of an assignment request) or the applicable portion of the Premises (in the event of a subleasing request); provided, however, if Landlord notifies Tenant that Landlord elects to exercise this recapture right, Tenant may, within five (5) business days of its receipt of Landlord's recapture notice, notify Landlord that Tenant withdraws its request to sublease or assign, in which case Tenant shall continue to lease all of the Premises, subject to the terms, provisions, covenants, and conditions of this Lease and Landlord's recapture notice shall be null and void.

(c) If Tenant desires to assign or sublease, Tenant shall provide written notice to Landlord describing the proposed transaction in detail and providing all documentation (including detailed financial information for the proposed assignee or subtenant) reasonably necessary to permit Landlord to evaluate the proposed transaction. Landlord shall notify Tenant within twenty (20) business days after Landlord's receipt of such notice whether Landlord elects to exercise Landlord's recapture right and, if not, whether Landlord consents to the requested assignment or sublease. If Landlord fails to respond within such 20-business day period, and such failure continues for five (5) business days after Landlord's receipt of a second written request therefor, Landlord will be deemed not to have elected to recapture and to have consented to the assignment or sublease. If Landlord does consent or is deemed to have consented to any assignment or sublease request and the assignee or subtenant pays to Tenant an amount in excess of the Rent due under this Lease (after deducting Tenant's actual, reasonable, out-of-pocket, documented expenses in obtaining such assignment or sublease, amortized in equal monthly installments over the then remainder of the Term), Tenant shall pay seventy percent (70%) of such excess to Landlord as and when the monthly payments are received by Tenant. Any subletting or assignment hereunder shall not release or discharge Tenant of or from any liability, whether past, present, or future, under or in connection with this Lease, and Tenant shall continue to be and remain fully and primarily liable thereunder. Any subtenant(s) and assignee(s) shall agree in a form reasonably satisfactory to Landlord to comply with and be bound by all of the terms, provisions, covenants, and conditions of this Lease to the extent of the space sublet or assigned, and Tenant shall deliver to Landlord, promptly after execution, an executed copy of each such sublease or assignment and an agreement of compliance by each such subtenant or assignee. Tenant shall, within ten (10) days following Landlord's written demand therefor, reimburse Landlord for all actual, reasonable, out-of-pocket costs and expenses incurred by Landlord (including, without limitation, fees paid to consultants (as may be required) and attorneys) in connection with any request by Tenant for Landlord to consent to any assignment or subletting by Tenant; provided, however, that Tenant's reimbursement obligation under this Subsection 46(c)

shall not exceed an aggregate amount of Three Thousand and No/100 Dollars (\$3,000.00) per each individual transfer request by Tenant so long as Landlord's then-standard form of consent document is utilized in connection therewith.

(d) Notwithstanding anything in this Section 46 to the contrary, Tenant may, without the prior consent of Landlord, assign this Lease or sublet all or any portion of the Premises to any Permitted Transferee (as hereinafter defined) of Tenant so long as: (i) Tenant continues to be and remain fully and primarily liable hereunder; (ii) Tenant is not then in default under this Lease at the time of giving notice thereof or on the effective date of such sublease or assignment; (iii) Tenant delivers to Landlord information establishing, in Landlord's reasonable determination, that the proposed assignee or sublessee is (and qualifies as) a Permitted Transferee; (iv) Tenant notifies Landlord in writing thereof not less than ten (10) business days in advance of the effective date of the proposed assignment or sublease; (v) the Tangible Net Worth (as hereinafter defined) of such Permitted Transferee is greater than or equal to the Tangible Net Worth of Tenant as of the Effective Date of this Lease or as of the date immediately preceding such transfer, whichever is greater; (vi) in the case of an assignment, such entity assumes the obligations of Tenant hereunder by written agreement in form and substance reasonably acceptable to Landlord; and (vii) in the case of a sublease, such entity agrees to subordinate such sublease, and otherwise observe and be bound by the terms, provisions, covenants, and conditions of this Lease, by written agreement in form and substance reasonably acceptable to Landlord (the foregoing, a "**Permitted Transfer**"). For purposes hereof: (A) the term "**Permitted Transferee**" shall mean (1) any subsidiary, parent, or affiliate company of Tenant, (2) any entity which directly or indirectly controls, is controlled by, or is under common control with Tenant, or (3) any entity which acquires or succeeds to all or substantially all of the assets or business of Tenant, including the resulting entity of a merger or consolidation of Tenant with another entity (so long as any such entity also assumes all rights and obligations of Tenant under this Lease); (B) the term "**control**" (including the terms "**controlling**", "**controlled by**", and "**under common control with**") shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract or otherwise; and (C) the term "**Tangible Net Worth**" shall mean the excess of the value of tangible assets (and specifically excluding, without limitation, intangible items or assets such as goodwill, patents, trademarks, organization costs, and the like) over liabilities and computed in accordance with generally accepted accounting principles consistently applied.

#### **I. Sale of Building; Limitation of Liability.**

47. **Sale.** Any sale or exchange of the Building, the Property, and/or the Project shall be subject to this Lease and the rights and obligations of Tenant hereunder, and Tenant agrees to attorn to such new owner. In the event that the original Landlord hereunder, or any successor owner of the Building, the Property, and/or the Project shall sell or convey the Building, the Property, and/or the Project, all liabilities and obligations on the part of the original Landlord, or such successor owner, under this Lease accruing thereafter shall terminate, and thereupon all such liabilities and obligations shall be binding upon the new owner. Notwithstanding anything to the contrary contained in this Section 47, before Tenant makes any payment to any new owner, Tenant's standard municipal procedures may require that such new owner submit such applicable disclosure forms as may be reasonably and uniformly required by Tenant from municipal vendors. Any change in payee (e.g., from Landlord to new owner) may result in a delay of payments of at least one (1) month. Any initial payment to a new owner that is delayed by not more than one (1) month shall not be subject to a late charge.

48. **Limitation of Liability.** It is expressly acknowledged, understood, and agreed by Tenant that any liability of Landlord and/or any Landlord Parties for damages for breach or nonperformance of Landlord's covenants, undertakings, or agreements hereunder, or otherwise arising under this Lease or in connection with the Premises, the Building, the Property, and/or the Project or the relationship of Landlord and Tenant hereunder, shall be collectible only out of Landlord's interest in the Building, the Property,

and/or the Project, proceeds from the conveyance or other transfer of the Building, the Property, and/or the Project, or proceeds of insurance or a condemnation, in each case as the same may then be encumbered, and no personal liability is assumed by, nor at any time may be asserted against, Landlord, any of the other Landlord Parties, or any of their respective members or other owners, direct or remote, all such liability, if any, being expressly waived and released by Tenant. Similarly, none of the members or other owners of Landlord or any of the other Landlord Parties shall, nor shall any of the Tenant Parties (other than Tenant), have any personal liability herein. To the fullest extent permitted by applicable Law, each party agrees not to assert, and hereby waives, in any legal action or other proceeding, any claim against the other party on any theory of liability for special, indirect, consequential, special, exemplary, or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Lease or the transactions contemplated hereby, except as otherwise expressly provided under Section 41 hereof.

**J. Brokers/Construction/Authority.**

49. **Broker Disclosure.** The Landlord's Broker identified in Item 12 of the Basic Lease Provisions has acted on behalf of Landlord in this transaction and, if applicable, is to be paid a commission by Landlord pursuant to a separate agreement. The Tenant's Broker identified in Item 12 of the Basic Lease Provisions, who Tenant represents is a real estate broker licensed in the State where the Building is located, has acted as agent for Tenant in this transaction and, if applicable, is to be paid a commission by Landlord pursuant to a separate agreement. Landlord represents to Tenant that Landlord has dealt with no other broker other than the broker(s) identified herein. Landlord agrees that if any other broker makes a claim for a commission based upon the actions of Landlord or any other Landlord Parties, Landlord shall indemnify, defend, and hold Tenant and the other Tenant Parties harmless from any such claim. Tenant represents to Landlord that Tenant has dealt with no broker other than the broker(s) identified herein. Tenant agrees that, if any other broker makes a claim for a commission based upon the actions of Tenant or any other Tenant Parties, Tenant shall indemnify, defend, and hold Landlord and the other Landlord Parties harmless from any such claim. Tenant will cause Tenant's broker to execute a customary lien waiver, adequate under applicable Law, to extinguish any lien claims such broker may have in connection with this Lease.

50. **Definitions.** "Landlord," as used in this Lease, shall include the party named as such herein, and its representatives, assigns, and successors in title to the Premises, the Building, the Property, and/or the Project. "Tenant" shall include the party named as such herein, its heirs, representatives, assigns, and successors, and, if this Lease shall be validly assigned or sublet, shall also include Tenant's assignees or subtenants, as to the Premises, or portion thereof, covered by such assignment or sublease. "Landlord" and "Tenant" include male and female, singular and plural, corporation, partnership, limited liability company (and the officers, members, partners, employees or agents of any such entities) or individual, as may fit the particular parties.

51. **Construction of this Agreement.** No failure of Landlord to exercise any power given Landlord hereunder, or to insist upon strict compliance by Tenant of its obligations hereunder, and no custom or practice of the parties at variance with the terms, provisions, covenants, or conditions hereof, shall constitute a waiver of Landlord's right to demand exact compliance with the terms, provisions, covenants, or conditions hereof. Time is of the essence of this Lease. No inference in favor of or against any party should be drawn from the fact that such party drafted or participated in the drafting of this Lease or that such terms, provisions, covenants, or conditions have been drafted on behalf of such party. This Lease shall be construed as though the covenants contained herein between Landlord and Tenant are independent and not dependent and Tenant hereby expressly waives the benefit of any Law to the contrary.

52. **No Estate In Land.** This Lease shall create the relationship of landlord and tenant between Landlord and Tenant; no estate shall pass out of Landlord; Tenant has only a right of use, not subject to levy or sale, and not assignable by Tenant except with Landlord's consent as hereinabove provided.

53. **Section Titles; Severability; Counterparts; Electronic Signatures.** The section titles used herein are not to be considered a substantive part of this Lease, but merely descriptive aids to identify the section to which they refer. Use of the masculine gender includes the feminine and neuter, and vice versa, where necessary to impart contextual continuity. If any section or provision herein is held invalid by a court of competent jurisdiction, all other sections or severable provisions of this Lease shall not be affected thereby, but shall remain in full force and effect. This Lease may be executed in one or more counterparts, each of which shall be deemed an original, and all of which, when taken together, shall be deemed and shall constitute a single, integrated original instrument. Electronic, digital, and facsimile signatures to this Lease shall be binding on the parties hereto to the same extent as original signatures hereto.

54. **Cumulative Rights.** All rights, powers and privileges conferred hereunder upon the parties hereto shall be cumulative but not restrictive to those given by applicable Law.

55. **Waiver of Jury Trial.** Landlord and Tenant shall and do hereby waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, or any statutory remedy.

56. **Entire Agreement.** This Lease contains the entire agreement of the parties and no representations, warranties, inducements, promises or agreements, oral or otherwise, between the parties not expressly embodied herein shall be of any force or effect.

57. **Submission of Agreement.** Submission of this Lease to Tenant for signature does not constitute a reservation of space or an option to acquire a right of entry. This Lease is not binding or effective until execution by and delivery to both Landlord and Tenant.

58. **Authority.** If Tenant or Landlord, as the case may be, executes this Lease as a corporation, limited partnership, limited liability company, or any other type of entity, Tenant or Landlord, as the case may be, does hereby represent and warrant to the other party hereto that (a) Tenant or Landlord, as the case may be, is a duly organized and validly existing corporation, limited partnership, limited liability company, or other type of entity, as the case may be, (b) Tenant or Landlord, as the case may be, is qualified to do business in the state where the Building is located, (c) Tenant or Landlord, as the case may be, has full right, power, and authority to enter into this Lease, and (d) each person signing on behalf of Tenant or Landlord, as the case may be, is authorized to do so. Upon Landlord's or Tenant's request, as the case may be, the requested party shall provide to the requesting party evidence reasonably satisfactory to the requesting party confirming the foregoing representations and warranties.

59. **Guaranty.** [Intentionally Omitted]

**K. Special State/Local Law Requirements/Special Stipulations.**

60. **Governing Law; Jurisdiction.** This Lease, the interpretation hereof, and any disputes arising hereunder or in connection herewith shall be governed by, construed in accordance with, and enforced in accordance with the Laws of the State of Illinois. Each of Landlord and Tenant hereby submit to local jurisdiction in the County of Cook, State of Illinois and/or in the United States District Court for the Northern District of Illinois (herein, the "**Applicable Jurisdiction**"), and each party (a) agrees that any action by Tenant against Landlord or Landlord against Tenant, as the case may be, shall be instituted in the

Applicable Jurisdiction, (b) agrees that courts located in the Applicable Jurisdiction shall have (i) personal jurisdiction over Tenant for any action brought by Landlord against Tenant, and (ii) personal jurisdiction over Landlord for any action brought by Tenant against Landlord, and (c) waives any objection such party may have, whether pursuant to applicable Law or otherwise, to the jurisdiction of courts located in the Applicable Jurisdiction over this Lease and any disputes arising hereunder or in connection herewith.

61. **Special Stipulations.** The Special Stipulations, if any, attached hereto as *Exhibit F* and incorporated are modifications to the terms, provisions, covenants, and conditions of this Lease and, if conflicting, such Special Stipulations shall control in the event of any conflict with the other terms, provisions, covenants, or conditions of this Lease or any exhibits hereto.

62. **OFAC and Anti-Money Laundering Compliance Certifications.** Tenant hereby represents, certifies, and warrants to Landlord that Tenant is not: (1) in violation of any Anti-Terrorism Law; (2) conducting any business or engaging in any transaction or dealing with any Prohibited Person, including the making or receiving or any contribution of funds, goods, or services to or for the benefit of any Prohibited Person; (3) dealing in, or otherwise engaging in, any transaction relating to any property or interest in property blocked pursuant to Executive Order No. 13224; (4) engaging in or conspiring to engage in any transaction that evades or avoids, had the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in any Anti-Terrorism Law; or (5) a Prohibited Person, nor are any of its partners, members, managers, officers, or directors a Prohibited Person. As used herein: (a) "**Anti-Terrorism Law**" is defined as any Law relating to terrorism, anti-terrorism, money laundering, or anti-money laundering activities, including, without limitation, Executive Order No. 13224 and Title 3 of the USA Patriot Act; (b) "**Executive Order No. 13224**" is defined as Executive Order No. 13224 on Terrorist Financing effective September 24, 2001, and relating to "Blocking Property and Prohibiting Transactions With Persons Who Commit, or Support Terrorism", as the same may be amended from time to time; (c) "**Prohibited Person**" is defined as (i) a person or entity that is listed in the Annex to Executive Order No. 13224, (ii) a person or entity with whom Tenant or Landlord is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law, or (iii) a person or entity that is named as a "specially designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control (OFAC) at its official website, <http://www.treasury.gov/ofac/downloads/t11sdn.pdf>, or at any replacement website or other official publication of such list from time to time; and (d) "**USA Patriot Act**" is defined as the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56), as the same may be amended from time to time. Notwithstanding anything in this Lease to the contrary, Tenant acknowledges and agrees that this Lease is a continuing transaction and that the foregoing representations, certifications, and warranties are ongoing and shall be and remain true and in full force and effect on the Effective Date hereof and throughout the Term of this Lease (and any extension or renewal thereof), and that any breach thereof shall be a default under this Lease (not subject to any notice or cure period) giving rise to Landlord's remedies, including, without limitation, forcible eviction, and Tenant hereby agrees, to the maximum extent permitted by applicable Law, to defend, indemnify, and hold harmless Landlord and the other Landlord Parties from and against any and all claims, damages, losses, risks, liabilities, fines, penalties, forfeitures, and expenses (including, without limitation, costs and attorneys' fees) arising from or related to any breach of the foregoing representations, certifications, and warranties.

**EXHIBIT A****PROPERTY**

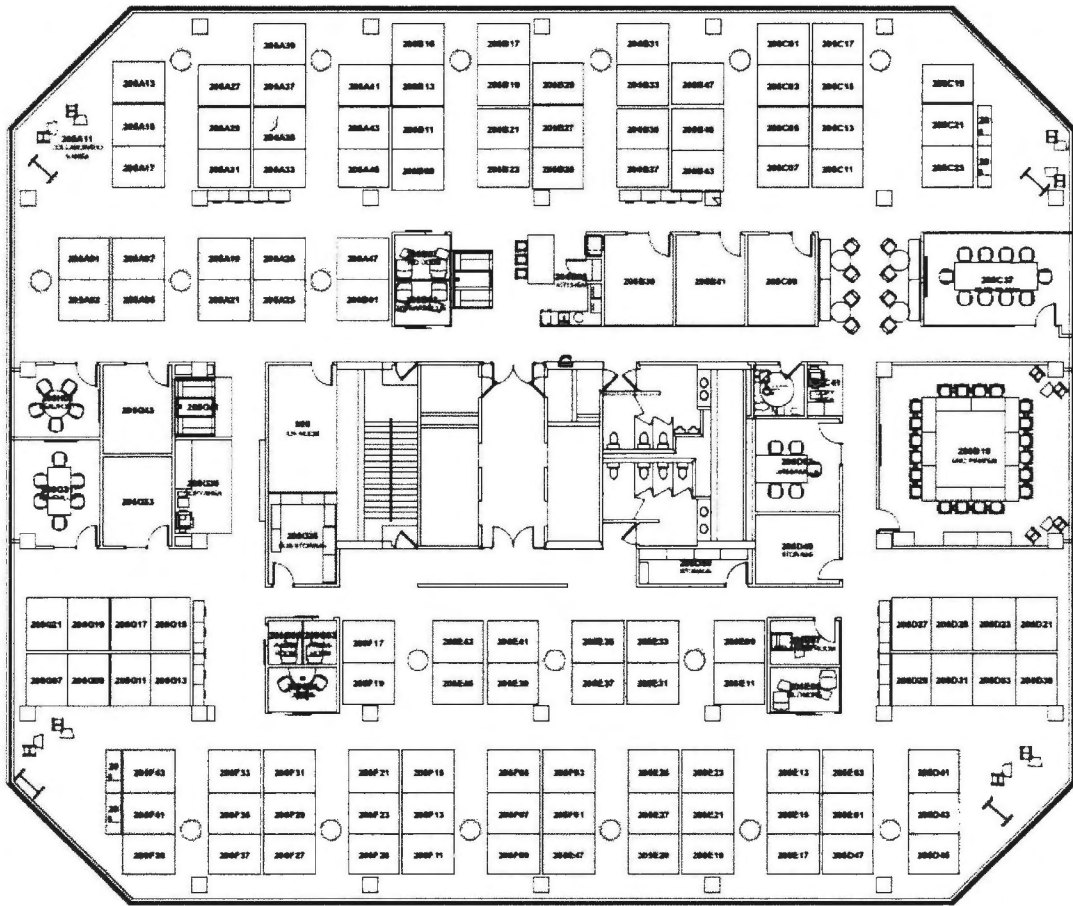
THAT PART OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 2; THENCE WEST ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 100.02 FEET; THENCE NORTH ALONG A LINE WHICH IS 100 FEET WEST OF (MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE EAST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 50.02 FEET TO A POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING ALONG SAID PARALLEL LINE A DISTANCE OF A FURTHER 150.91 FEET; THENCE EXTENDING NORTHWESTERLY ON A LINE WHICH FORMS AN ANGLE OF 147° 55' 45" WITH THE LAST DESCRIBED COURSE (AS MEASURED FROM SOUTH TO WEST TO NORTHWEST) 253.90 FEET; THENCE EXTENDING NORTHWESTERLY ON A DEFLECTION TO THE LEFT OF 19° 17' 22" A DISTANCE OF 813.94 FEET; THENCE WESTERLY ON A DEFLECTION TO THE LEFT OF 23° 54' 20" A DISTANCE OF 143.61 FEET; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE (WHICH IF EXTENDED WOULD INTERSECT THE WEST LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER AT A POINT 974.86 FEET NORTH OF THE SOUTHWEST CORNER THEREOF) A DISTANCE OF 34.47 FEET TO A LINE 295.63 FEET EAST OF (MEASURED AT RIGHT ANGLES) AND PARALLEL WITH SAID WEST LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH ALONG SAID 295.63 FOOT LINE A DISTANCE OF 478.39 FEET TO THE NORTH LINE OF THE SOUTH 510.03 FEET, AS MEASURED ON THE WEST LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE EAST ALONG AFORESAID NORTH LINE TO A LINE DRAWN PERPENDICULAR TO THE SOUTH LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER EXTENDING FROM A POINT 509.69 FEET EAST OF THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH ALONG SAID PERPENDICULAR LINE TO A LINE 50.0 FEET NORTH OF (MEASURED AT RIGHT ANGLES) AND PARALLEL WITH THE SOUTH LINE OF SAID SOUTHWEST QUARTER; THENCE EAST ALONG SAID PARALLEL LINE TO THE POINT OF BEGINNING (EXCEPT THEREFROM THAT PART DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 2; THENCE WEST ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 100.02 FEET; THENCE NORTH ALONG A LINE WHICH IS 100 FEET WEST OF (MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE EAST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 200.93 FEET; THENCE EXTENDING NORTHWESTERLY ON A LINE WHICH FORMS AN ANGLE OF 147° 55' 45" WITH THE LAST DESCRIBED COURSE (AS MEASURED FROM SOUTH TO WEST TO NORTHWEST) 253.90 FEET; THENCE EXTENDING NORTHWESTERLY ON A DEFLECTION TO THE LEFT OF 19° 17' 22" A DISTANCE OF 133.94 FEET TO A POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING ALONG SAID LINE (HEREINAFTER REFERRED TO AS LINE "A") A DISTANCE OF 15 FEET TO A POINT (HEREINAFTER REFERRED TO AS POINT "A"); THENCE SOUTHWESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE A DISTANCE OF 5 FEET; THENCE SOUTHEASTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 15 FEET; THENCE NORTHEASTERLY A DISTANCE OF 5 FEET TO THE POINT OF BEGINNING; ALSO COMMENCING AT POINT "A" AND CONTINUING ALONG AN EXTENSION OF LINE "A" A DISTANCE OF 350 FEET FOR A POINT OF BEGINNING; THENCE CONTINUING NORTHWESTERLY ON AN EXTENSION OF LINE "A" A DISTANCE OF 40 FEET; THENCE SOUTHWESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE A DISTANCE OF 5

FEET; THENCE SOUTHEASTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE A DISTANCE OF 40 FEET; THENCE NORTHEASTERLY A DISTANCE OF 5 FEET TO THE POINT OF BEGINNING; ALSO COMMENCING AT POINT "A" AND CONTINUING ALONG AN EXTENSION OF LINE "A" A DISTANCE OF 510 FEET FOR A POINT OF BEGINNING; THENCE CONTINUING NORTHWESTERLY ON AN EXTENSION OF LINE "A" A DISTANCE OF 155 FEET; THENCE WESTERLY ON A DEFLECTION TO THE LEFT OF 23° 54' 20" ALONG A STRAIGHT LINE (HEREINAFTER REFERRED TO AS LINE "B"), A DISTANCE OF 143.61 FEET; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE (WHICH IF EXTENDED WOULD INTERSECT THE WEST LINE OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER AT A POINT 974.86 FEET NORTH OF THE SOUTHWEST CORNER THEREOF) A DISTANCE OF 24.52 FEET TO AN INTERSECTION WITH A LINE 7 FEET SOUTHWESTERLY OF (MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH LINE "B"; THENCE SOUTHEASTERLY ALONG SAID PARALLEL LINE A DISTANCE OF 166.52 FEET TO AN INTERSECTION WITH A LINE 7 FEET SOUTHWESTERLY OF (MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH LINE "A"; THENCE SOUTHEASTERLY ALONG SAID PARALLEL LINE A DISTANCE OF 153.54 FEET; THENCE NORTH NORTHEASTERLY A DISTANCE OF 7 FEET TO THE POINT OF BEGINNING) IN COOK COUNTY, ILLINOIS.

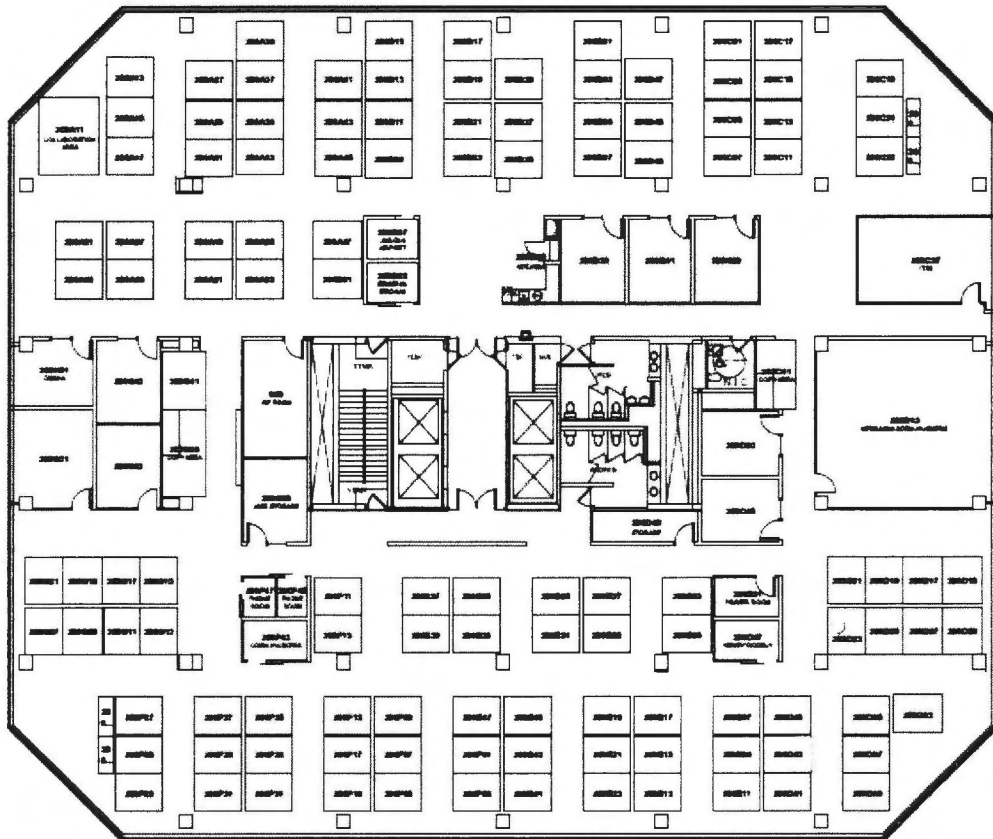
**EXHIBIT A-1**

**PREMISES**

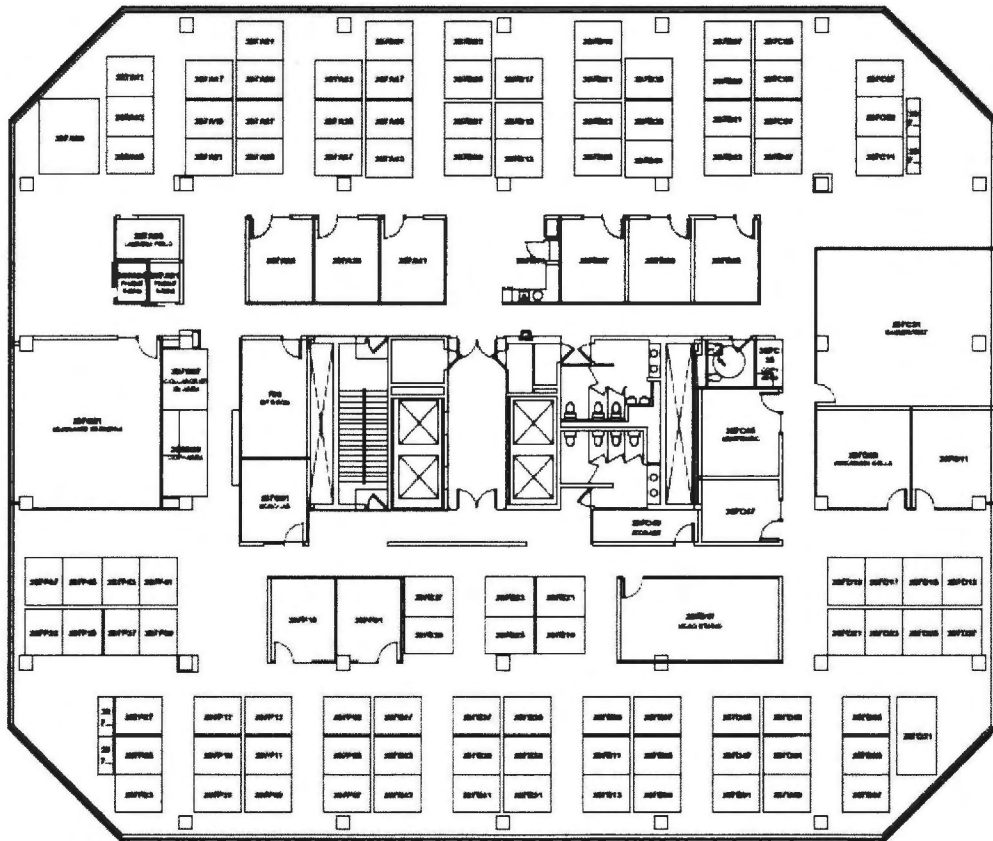
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Existing Conditions  
Suite 500  
19,948 RSF



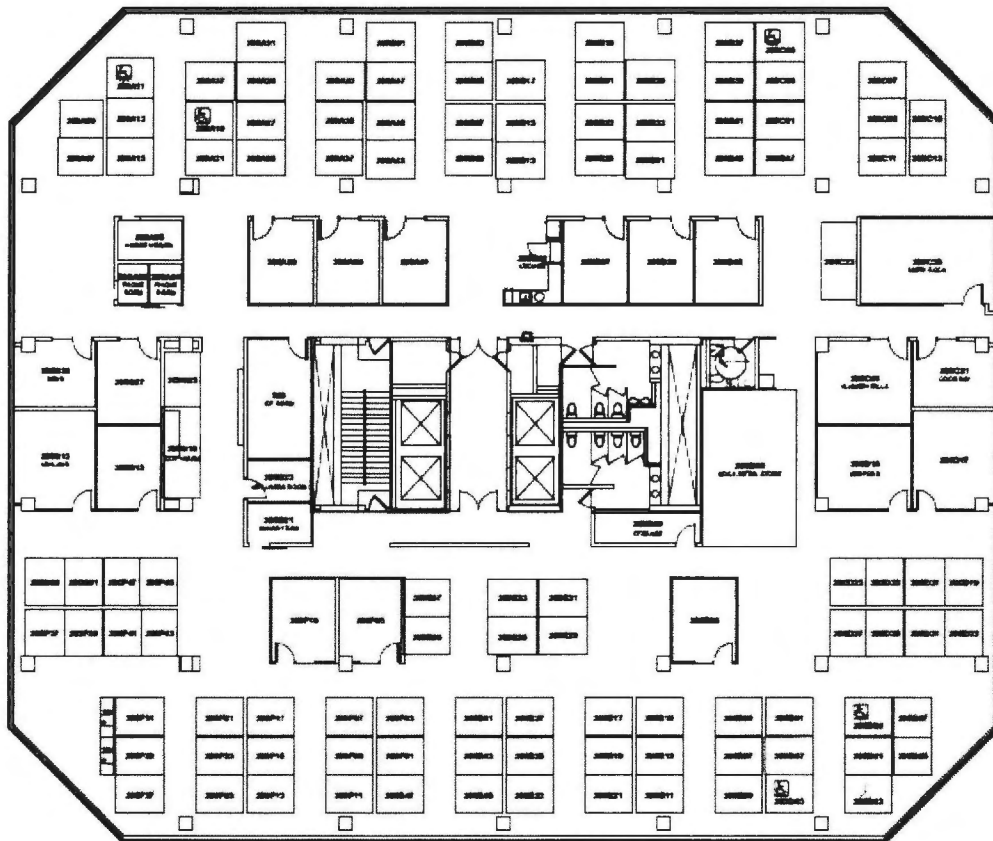
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Existing Conditions  
Suite 600  
19,883 RSF



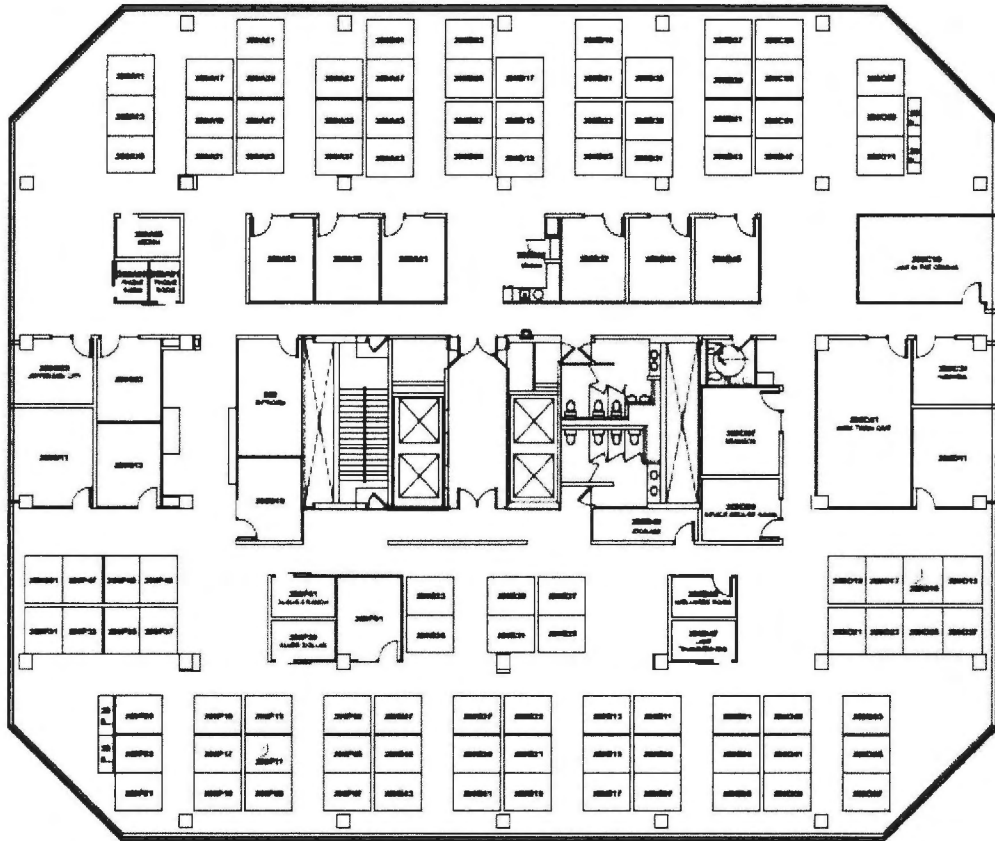
8420 W. Bryn Mawr  
Existing Conditions  
Suite 700  
19,883 RSF



8420 W. Bryn Mawr  
Existing Conditions  
Suite 800  
19,883 RSF



8420 W. Bryn Mawr  
Existing Conditions  
Suite 900  
19,824 RSF



**EXHIBIT B****WORK LETTER**

To induce Tenant to enter into the Lease (to which this Work Letter is attached) and in consideration of the mutual covenants hereinafter contained, Landlord and Tenant agree as follows:

1. Tenant shall construct, or cause to be constructed, at Tenant's sole cost and expense (subject, however, to application of the Tenant Improvement Allowance as hereinafter provided) leasehold improvements to the Premises (the "**Improvement Work**") in accordance with the Plans (as hereinafter defined).

(a) Tenant shall prepare, or cause to be prepared, by a licensed architect first approved by Landlord in writing ("**Tenant's Architect**"), a preliminary space plan for the Premises (the "**Space Plan**"). Tenant shall cause the Space Plan (and any modifications thereof) to comply with all applicable Laws. The Space Plan shall be subject to Landlord's approval, which approval shall not be unreasonably withheld, conditioned, or delayed. Within ten (10) business days after the Space Plan has been submitted to Landlord, Landlord shall approve or disapprove the Space Plan in writing, and in the case of disapproval, Landlord shall advise Tenant of the specific changes required so that the Space Plan will meet Landlord's approval. Tenant shall thereafter revise the Space Plan to address all of Landlord's approval requirements, and shall resubmit the revised Space Plan to Landlord for review. Within five (5) business days after the revised Space Plan has been submitted to Landlord, Landlord shall approve or disapprove the revised Space Plan in writing as aforesaid. This process shall continue until the Space Plan has been approved by Landlord in all respects. Tenant shall pay the cost of the Space Plan and any revisions thereto (subject to application of the Tenant Improvement Allowance as hereinafter provided)

(b) Promptly following Landlord's approval of the Space Plan, Tenant shall prepare, or cause to be prepared, by Tenant's Architect, working drawings for the construction of the improvements adequate in detail to perform the Improvement Work, and shall, to the extent required, have mechanical (sprinkler, air conditioning, heating, electrical, and plumbing) drawings prepared by a licensed mechanical engineer or contractor reasonably acceptable to Landlord in writing covering mechanical elements of the Improvement Work (together with the Space Plan, the drawings are referred to as the "**Plans**"). Tenant shall cause the Plans (and any modifications thereof) to comply with all applicable Laws. The Plans shall be subject to Landlord's approval, which approval shall not be unreasonably withheld, conditioned, or delayed. Within ten (10) business days after the Plans have been submitted to Landlord, Landlord shall approve or disapprove the Plans in writing, and in the case of disapproval, Landlord shall advise Tenant of the specific changes required so that the Plans will meet Landlord's approval. Tenant shall thereafter revise the Plans to address all of Landlord's approval requirements, and shall resubmit the revised Plans to Landlord for review. Within five (5) business days after the revised Plans have been submitted to Landlord, Landlord shall approve or disapprove the revised Plans in writing as aforesaid. This process shall continue until the parties have approved the Plans in all respects. Tenant shall pay the cost of the Plans and any revisions thereto (subject to application of the Tenant Improvement Allowance as hereinafter provided).

(c) Neither review nor approval by Landlord of the Plans, or any component thereof, shall constitute a representation or warranty by Landlord that such Plans, or any component thereof, either (i) are complete or suitable for their intended purpose, or (ii) comply with applicable Laws, it being expressly understood and agreed by Tenant that Landlord assumes no responsibility or liability whatsoever to Tenant or to any other person or entity for such completeness, suitability, or compliance.

(d) Tenant shall be permitted to select the general contractor who will perform the Improvement Work and any Additional Work so long as such general contractor has first been approved

by Landlord, which approval shall not be unreasonably withheld, conditioned, or delayed so long as such general contractor is a licensed, bonded, and insured union contractor capable of performing quality workmanship and capable of working in harmony with (and without disruption of) the contractors of Landlord and other tenants and occupants of the Building. In the event that the Improvement Work, or any portion thereof, is performed by contractors or workmen other than Landlord's contractors or workmen, any such contractors or workmen must first be approved, in writing, by Landlord, which approval shall not be unreasonably withheld, conditioned, or delayed so long as such contractors are licensed, bonded, and insured union contractors capable of performing quality workmanship and capable of working in harmony with (and without disruption of) the contractors of Landlord and other tenants and occupants of the Building, and Landlord shall have the right to receive copies of any and all contracts to be executed by and between Tenant and any such contractors or workmen. Landlord may require that Tenant select subcontractors from a list of such parties for any portion of the Improvement Work involving fire and life safety system work or work affecting base Building systems, equipment, or structural components. Tenant shall cause all such contractors and workmen to procure and maintain, and to submit to Landlord prior to the commencement of the Improvement Work or any portion thereof (and as a condition of being granted entry to the Premises), such insurance coverage as may be required by Landlord, as well as a certificate evidencing such coverage and any required endorsements thereto. Such insurance coverage shall name Landlord, Landlord's affiliates, Landlord's property manager, and any mortgagee of Landlord (as well as any other party reasonably designated in written notice from Landlord from time to time) as additional insureds thereunder.

(e) Tenant shall be required to procure and obtain, and present evidence thereof to Landlord prior to the commencement of any work hereunder, any and all permits and governmental approvals required in connection with the Improvement Work and any Additional Work hereunder. The Improvement Work shall thereafter be performed by Tenant, at Tenant's sole cost and expense (subject to application of the Tenant Improvement Allowance), and (i) in strict accordance with the Plans, (ii) in compliance with all applicable Laws, and (iii) in a good and workmanlike manner utilizing only good grades of materials. Tenant shall cause its contractors to warrant that the Improvement Work, the applicable components thereof, and the materials incorporated therein shall be free from defects in material and workmanship for a period of not less than one (1) full year from the date of Substantial Completion thereof, or for the duration of any third-party warranty period applicable to the Improvement Work, if longer. Such warranties shall run to the benefit of each of Tenant and Landlord.

(f) Landlord, at its option, may require Tenant to remove any alterations, additions, or improvements comprising part of the Improvement Work or the Additional Work (as hereinafter defined) upon the expiration or earlier termination of the Lease in order to restore the Premises to the condition existing prior to the Commencement Date, but only if Landlord so specifies in writing to Tenant at the time of Landlord's approval of the Plans what portion of the Improvement Work or the Additional Work, if any, as the case may be, shall be required to be so removed.

2. Any other work desired by Tenant, and approved by Landlord (which approval shall not be unreasonably withheld), shall be performed by Tenant at Tenant's sole cost and expense (subject to application of the Tenant Improvement Allowance), subject to the terms and provisions of this Work Letter. If Tenant desires any work in addition to the Improvement Work described in Paragraph 1 hereof ("**Additional Work**"), Tenant shall cause the necessary drawings, plans, and specifications for the Additional Work to be included on the Plans, or shall submit to Landlord or Landlord's agent (at Tenant's sole cost and expense) the necessary drawings, plans, and specifications for the Additional Work for Landlord's review and approval, which shall be in accordance with Paragraph 1 hereof. Prior to commencing any such Additional Work, Tenant shall submit to Landlord a written estimate of the cost of such Additional Work.

3. (a) Landlord is providing Tenant with the Tenant Improvement Allowance set forth in Item 10 of the Basic Lease Provisions from and after the later of (i) Effective Date hereof, or (ii) the date on which the contingency under Section 65 of Exhibit F attached hereto has lapsed or otherwise been waived, to be applied toward any hard or soft costs associated with Tenant's relocation to the Building, including without limitation, construction costs, architectural, furniture, fixtures, equipment, wiring/cabling, and moving expenses, as well as costs associated with Improvement Work and Additional Work, including, without limitation, Landlord's construction management fee as hereinafter set forth. Tenant may request funds be drawn against the Tenant Improvement Allowance for reimbursement of Tenant's costs at any time and from time to time commencing on the Effective Date and continuing through and including December 31, 2026 (the "**Allowance Application Deadline**"). In the event that there remains as of the Allowance Application Deadline all or any portion of the Tenant Improvement Allowance for which Tenant has not then requested reimbursement, credit, or payment, Landlord may at any time thereafter (and without further notice) apply any then-remaining portion of the Tenant Improvement Allowance, up to a maximum of One Million Seven Hundred Thirty-Nine Thousand Eight Hundred Sixty-Seven and 50/100 Dollars (\$1,739,867.50) (calculated by multiplying \$17.50 by 99,421, being the rentable area of the Premises) (the "**Net Rent Credit Allocation**"), as a credit against Tenant's obligations for Net Rent next coming due and payable under the Lease until exhausted. Any portion of the Tenant Improvement Allowance that remains unapplied following application of the New Rent Credit Allocation as aforesaid shall be deemed forfeited by Tenant, Landlord shall be entitled to the savings resulting therefrom, and Tenant shall receive no further credit therefor.

(b) Any and all costs of the Improvement Work and Additional Work in excess of the Tenant Improvement Allowance shall be the sole responsibility of Tenant and shall be promptly paid by Tenant as and when due, and Landlord shall have no liability in connection therewith.

(c) If the actual cost of the Improvement Work and any Additional Work exceeds the Tenant Improvement Allowance, Tenant shall promptly pay as and when due any and all costs of the Improvement Work and any Additional Work that are in excess of the Tenant Improvement Allowance. Landlord shall have the option, but not the obligation, to establish a construction escrow with a licensed title insurance company (an "**Escrowee**") for deposit and disbursement of the Tenant Improvement Allowance hereunder. Funds may be drawn against the Tenant Improvement Allowance as hereinabove provided, subject to the following:

(i) Tenant may not make more than one (1) draw in any calendar month;

(ii) The minimum amount which may be drawn at any one time (except in case of the initial draw and the final draw) is Fifty Thousand and No/100 Dollars (\$50,000.00);

(iii) Except for the final draw, the maximum amount of any draw shall not exceed an amount which bears the same ratio to the total Tenant Improvement Allowance as the cost of the Improvement Work and any Additional Work paid by Tenant and covered by the lien waivers submitted by Tenant in connection with the draw request bears to the total cost of the Improvement Work and any Additional Work (it being the intention of the parties that such Tenant Improvement Allowance shall only be funded on a proportional, "pari passu" basis);

(iv) With each draw request, Tenant shall submit to Landlord or Escrowee, as the case may be, the following documents:

(A) A true and correct copy of the application for payment by Tenant's contractors for the Improvement Work and any Additional Work completed to date, including contractor's affidavits and sworn statements evidencing the cost of the

Improvement Work and any Additional Work performed to date (or in the case of subcontractors and materialmen, affidavits and sworn statements for the last preceding draw request sufficient to permit the Escrowee to insure over the same);

(B) Partial or final lien waivers with respect to the Improvement Work and any Additional Work performed to date (or, in the case of subcontractors and materialmen, and except for the final draw, partial lien waivers for the immediately preceding draw request);

(C) Tenant's certification to Landlord and Escrowee, if applicable, that the amounts set forth in all contractors' sworn statements are owed to Tenant's contractors for the Improvement Work and any Additional Work performed to date;

(D) The total cost of the Improvement Work and any Additional Work based on the Plans, or any modifications thereof, as such cost may change from time to time;

(E) With the final draw request, Tenant shall submit to Landlord a certificate from Tenant's architect stating that the Improvement Work (and any Additional Work) has been completed substantially in accordance with the Plans and in accordance with applicable zoning, building, environmental, and other Laws; and

(F) Such additional reasonable and customary documentation as may be required by Landlord or Escrowee, if applicable.

(v) Landlord or Escrowee, as the case may be, will endeavor to disburse the portion of the Tenant Improvement Allowance allocable to each draw request to Tenant or Tenant's contractors (at Landlord's option) within thirty (30) days after Tenant and Tenant's contractors have submitted, and Landlord is in receipt of, all of the required information for such draw (as determined by Landlord or Escrowee, as the case may be), and Tenant has otherwise complied with the requirements hereof.

(d) Subject to the applicable terms, provisions, covenants, and conditions of the Lease and this Work Letter, including, specifically and without limitation, the draw requirements and other obligations set forth herein, solely in the event that Landlord fails to disburse any portion of the Tenant Improvement Allowance as and when required under this Work Letter, and so long as Tenant shall have complied with the draw requirements and other obligations set forth herein and Tenant is not otherwise in default beyond any applicable notice and cure period under any of the terms, provisions, covenants, and conditions of the Lease or this Work Letter, Tenant shall have the right to give Landlord written notice (an "**Offset Notice**") requesting disbursement of such portion of the Tenant Improvement Allowance, which Offset Notice shall contain a sentence in capitalized, boldfaced lettering stating "**LANDLORD'S FAILURE TO DISBURSE SUCH PORTION OF THE TENANT IMPROVEMENT ALLOWANCE WITHIN SIXTY (60) DAYS AFTER LANDLORD'S RECEIPT OF THIS OFFSET NOTICE SHALL GIVE TENANT THE RIGHT TO OFFSET SUCH UNDISBURSED AMOUNT AGAINST THE PAYMENT OF MONTHLY BASE RENT**", and in the event that Landlord fails to disburse such portion of the Tenant Improvement Allowance or otherwise dispute Tenant's Offset Notice in writing within sixty (60) days after Landlord's receipt of such Offset Notice, such undisbursed portion of the Tenant Improvement Allowance may be offset against the next installment of Net Rent then due Landlord under the Lease (in order of payment) until the entirety of such undisbursed portion of the Tenant Improvement Allowance has been either fully offset or paid by Landlord in full.

4. Tenant shall already be in occupancy of the Premises pursuant to the Existing Sublease. Tenant may commence construction of the Improvement Work at any time following the Effective Date hereof, subject to the terms, provisions, covenants, and conditions of the Lease and this Work Letter. Tenant, the Tenant Parties, and their respective agents, contractors, employees, and invitees shall nevertheless work in harmony with, and shall not interfere with, Landlord, the Landlord Parties, and their respective agents, contractors, and employees, or with other tenants and occupants of the Building, in doing any work in the Building. If at any time Tenant, the Tenant Parties, or any of their respective agents, contractors, employees, or invitees shall cause or threaten to cause disharmony or interference, and Tenant fails to cure the same within one (1) business day following written notice from Landlord, Landlord shall have the right to order Tenant to cease construction of the Improvement Work and any Additional Work until such disharmony or interference has been cured. In no event shall Landlord, the Landlord Parties, or any of their respective agents, contractors, or employees be liable in any way for any injury, loss, or damage which may occur to any of Tenant's work and installations made in or to the Premises or to properties placed therein prior to the Commencement Date, the same being at Tenant's sole risk.

5. "**Substantial Completion**" of the Improvement Work shall be deemed to occur on the date when the Improvement Work has been completed (except for punchlist items which do not materially, adversely affect Tenant's use) and a certificate of occupancy or other required governmental approval, to the extent required, has been issued by the City for the Premises. In no event shall the Commencement Date be delayed beyond November 1, 2025 as a result of any delay in the completion of the Improvement Work hereunder.

6. Tenant agrees to pay to Landlord as a construction management fee an amount equal to six percent (6%) of the total, aggregate costs of the Improvement Work and the Additional Work (if any). In addition, Tenant shall reimburse Landlord for all costs and expenses incurred by Landlord to third parties in connection with the review and approval of the Improvement Work and the Additional Work (if any) hereunder. Such fee and costs shall be deducted from the Tenant Improvement Allowance by Landlord from time to time upon completion of the various portions of the Improvement Work and the Additional Work, if any (provided, however, if sufficient sums do not then remain in the Tenant Improvement Allowance for the payment of such fee and/or costs, Tenant shall thereafter pay such fee and/or costs, or any remaining portion(s) thereof, to Landlord within ten (10) days following Landlord's invoice therefor).

7. Tenant has designated \_\_\_\_\_ [Tel. No.: ( ) - ]; E-Mail: \_\_\_\_\_] ("**Tenant's Authorized Representative**"), and Landlord has designated Mari Camilo, RPA [Tel. No.: (773) 693-0010; E-Mail: [mari.camilo@colliers.com](mailto:mari.camilo@colliers.com)] ("**Landlord's Authorized Representative**"), as the sole authorized representatives with respect to the matters set forth in this Work Letter, who, until further written notice from Tenant or Landlord, as the case may be, to the other party hereto, shall have full and exclusive authority and responsibility to act on behalf of their respective parties as required in this Work Letter. Any instructions or approvals delivered to either party by any other individual shall not be binding, unless otherwise expressly agreed to in writing by both Landlord and Tenant.

**EXHIBIT C****RULES AND REGULATIONS**

1. The sidewalks, entry passages, corridors, halls, elevators and stairways shall not be obstructed by Tenant or used for any purpose other than that of ingress and egress. The floors, skylights and windows that reflect or admit light into any place in the Building shall not be covered or obstructed by Tenant. The toilets, drains and other water apparatus shall not be used for any other purpose than those for which they were constructed and no rubbish or other obstructing substances shall be thrown therein.

2. No advertisement, signs, pictures, placards or other notice shall be inscribed, painted or affixed on any part of the outside or inside of the Building, except upon the doors, and of such order, size and style, and at such places, as shall be approved and designated by Landlord. Interior signs on doors will be ordered for Tenant by Landlord, the cost thereof to be charged to and paid for by Tenant.

3. Tenant shall not do or permit to be done in the Premises, or bring or keep anything therein, which shall in any way increase the rate of insurance carried by Landlord on the Building, or on the Property, or obstruct or interfere with the rights of other tenants or in any way injure or annoy them, or violate any applicable Laws, codes or regulations. Tenant, its agents, employees or invitees shall maintain order in the Premises and the Building, shall not make or permit any improper noise in the Premises or the Building or interfere in any way with other tenants, or those having business with them. Nothing shall be thrown by Tenant, its clerks or servants, out of the windows or doors, or down the passages or skylights of the Building. No rooms shall be occupied or used as sleeping or lodging apartments at any time. No part of the Building shall be used or in any way appropriated for gambling, immoral or other unlawful practices, and no intoxicating liquor or liquors shall be sold in the Building.

4. Tenant shall not employ any persons other than the janitors of Landlord (who will be provided with pass-keys into the offices) for the purpose of cleaning or taking charge of the Premises, except as may be specifically provided otherwise in the Lease.

5. No animals, birds, bicycles or other vehicles shall be allowed in the offices, halls, corridors, elevators or elsewhere in the Building, without the approval of Landlord.

6. No painting shall be done, nor shall any alterations be made to any part of the Building or the Premises by putting up or changing any partitions, doors or windows, nor shall there be any nailing, boring or screwing into the woodwork or plastering, nor shall any connection be made in the electric wires or gas or electric fixtures, without the consent in writing on each occasion of Landlord. All glass, locks and trimmings in or upon the doors and windows of the Building shall be kept whole and, when any part thereof shall be broken by Tenant or Tenant's agent, the same shall be immediately replaced or repaired by Tenant (subject to Tenant's compliance with Section 23 of the Lease) and put in order under the direction and to the satisfaction of Landlord, or its agents, and shall be kept whole and in good repair. Tenant shall not injure, overload, or deface the Building, the woodwork or the walls of the Premises, nor carry on upon the Premises any noxious, noisy or offensive business.

7. Two (2) keys will be furnished Tenant without charge. No additional locks or latches shall be put upon any door and no locks shall be changed without the written consent of Landlord. Tenant, at the termination of their Lease, shall return to Landlord all keys to doors in the Building. Tenant shall not alter locks or install new locks without approval from Landlord.

8. Landlord in all cases retains the power to prescribe the weight and position of iron safes or other heavy articles. Tenant shall make arrangements with the superintendent of the Building when the elevator is required for the purpose of the carrying of any kind of freight.

9. The use of burning fluid, camphene, benzine, kerosene or anything except gas or electricity, for lighting the Premises, is prohibited. No offensive gases or liquids will be permitted.

10. If Tenant desires blinds, coverings or drapes over the windows, they must be of such shape, color and material as may be prescribed by Landlord, and shall be erected only with Landlord's consent and at the expense of Tenant. No awnings shall be placed on the Building. Window covering shall be closed when the effect of sunlight would impose unnecessary loads on the air conditioning system.

11. All wiring and cabling work shall be done only by contractors approved in advance by Landlord and Landlord shall have the right to have all such work supervised by Building engineering/maintenance personnel. No antenna or cabling shall be installed on the roof or exterior walls of the Building.

12. Landlord reserves the right at all time to hire and provide additional access control personnel for the Building, and every person entering or leaving the Building may, among other things, be (a) questioned by such personnel as to the visitor's business in the Building, (b) required to provide personal (including photographic or other individual) identification and establish that person's purpose for entering the Building, (c) limited only to certain floors of the Building upon which such person has established a basis for visiting, and (d) required to sign his or her name on a form provided by the Building for so registering such persons. Landlord shall have no liability with respect to breaches of such programs, if any.

13. Landlord shall have the right, exercisable without notice and without liability to Tenant, to change the name or street address of the Building or the room or suite number of the Premises.

14. The freight elevator shall be available for use by all tenants in the Building subject to such reasonable scheduling as Landlord in its discretion shall deem appropriate. The persons employed to move such equipment in or out of the Building must be acceptable to Landlord and any costs incurred by Landlord shall be reimbursed by Tenant.

15. Canvassing, peddling, soliciting and distribution of handbills or any other written materials in the Building are prohibited and each tenant shall cooperate to prevent the same.

16. Each tenant shall ensure that all doors to its premises are locked and all water faucets or apparatus and office equipment are shut off before the tenant or its employees leave such premises at night. On multiple tenancy floors, all tenants shall keep the doors to the Building corridors closed at all times except for ingress and egress.

17. The toilets, urinals, wash bowls and other restroom facilities shall not be used for any purpose other than for which they were constructed, no foreign substance of any kind whatsoever may be thrown therein and the expense of any breakage, stoppage or damage resulting from a violation of this rule shall be borne by the tenant who, or whose employees or invitees, shall have caused it.

18. Each tenant shall store its refuse within its Premises. No material shall be placed in the refuse boxes or receptacles if such material is of such a nature that it may not be disposed of in the ordinary and customary manner of removal without being in violation of any Law or ordinance governing such disposal.

19. Landlord reserves the right to make such other and reasonable rules and regulations as in its judgment may from time to time be needed for the safety, care and cleanliness of the Building and for the preservation of good order therein.

20. All vendors and contractors, whether Landlord or Tenant, must provide Building management with an appropriate written protocol for such vendor's or contractor's workers, including personal protective equipment, protective measures, cleaning, and plans for social distancing.

21. All vendors and contractors, whether Landlord or Tenant, must enter through the designated dock area and sign in on the provided log.

22. In the event of any infectious or communicable virus, disease, or other sickness (including, without limitation, COVID-19 or any derivative thereof) that is the subject of any declared pandemic, epidemic, or other national, state, or local health emergency, Landlord reserves the right (but shall not have the obligation) to institute such additional temporary or permanent rules, regulations, restrictions, processes, and/or procedures as may be necessary or appropriate from time to time, taking into account, among other things, applicable Laws and governmental directives or orders, the guidelines or recommendations of the CDC and/or any other Federal, State, county, municipal, or other governing authorities, departments, commissions, agencies, or boards with jurisdiction thereof, and the practices then prevailing at Comparable Buildings.

**EXHIBIT D****HVAC SPECIFICATIONS**

Heating, ventilating and air conditioning equipment in the Building shall be capable of maintaining the following interior conditions when the following maximum outside conditions exist, subject to the conditions set forth in Section 15 of this Lease:

Inside ConditionsOutside Conditions

78° F (dry bulb)

up to 95° F (dry bulb)  
up to 75° F (wet bulb)

72° F

down to -2° F

65° F

down to -10° F

Occupant Load

1 person per 250 sq. ft. (usable)

Equipment &amp; Lighting Load

3.0 watts per sq. ft. (usable)

**EXHIBIT E****CLEANING SPECIFICATIONS****TENANT AREAS**

Dust and hard surfaced flooring with specially treated cloths to insure dust free floors *nightly*.

Sweep and damp mop all uncarpeted areas to remove spills, stains, heel marks, etc. Completely damp mop all heavily trafficked areas, including corridors, entrance areas, cafeterias/vending areas, kitchens and coffee rooms *nightly*.

Vacuum carpeted areas and rugs *nightly*. Detail vacuum edges and underneath desks *once per week*.

Spot clean carpeting to remove soluble spills, spots, stains, etc., which safely respond to standard spotting procedures without risk of injury to carpet fabric or color *nightly*.

Empty all waste containers and replace plastic liners in accordance with building's recycling program. Damp wipe waste containers as necessary. Can liners to be furnished by *building*.

Remove waste paper and waste materials to the dock area of the building using janitor carts/carriages. Clear heavy duty plastic liners used in the janitor cart/carriages will be supplied by the CONTRACTOR. CONTRACTOR'S personnel to place waste material in compactors in accordance with building's recycling program and operate compactors *nightly*.

Dust with a treated cloth or mitt all horizontal surfaces that can be reached without a ladder, i.e., desks, file cabinets, binder bins, cubicles, window sills, book cases, ledges, trim, etc. *nightly*.

Damp wipe and towel dry conference room tables *nightly*.

Spot clean to remove dirt, finger marks, smudges, etc. from all doors, door frames, switch plates, walls, glass areas adjacent to doors, push plates, handles, railings, etc. *nightly*. Clean polish and sanitize all drinking fountains and water coolers using germicidal solution *nightly*.

Wash glass in directories *nightly*.

Wet sponge wipe table tops in employee lounges *nightly*.

Spot clean all glass entrance doors and side panels to remove finger marks, smudges, etc. *nightly*.

Turn off lights and secure space when work assignments are complete *nightly*.

Wash all glass entrance doors and side panels inside and out *once per week*.

Dust baseboards, chair rails, trim, louvers, moldings and other "low-dust" areas *once per week*.

Damp wipe all desk tops, credenza tops, table tops, counter tops and any other horizontal surfaces as necessary, but not less frequently than *once per week*.

Damp wipe clean interior building metal including doors, knobs, hinges, lock face plates, door saddles, push plates, kick plates, etc. Using a cloth dampened with water only *once per week*.

Wipe clean and sanitize all telephones with germicidal detergent using disposable paper wipes which will be disposed of after use on each telephone *once per week*.

Do high dusting which includes the following *once every three months*:

Dust pictures, frames, charts, graphs, and similar wall hangings not reached in nightly cleaning.

Dust clean all lighting fixtures, exposed pipes and ducts, ceiling vents, etc.

Dust clean all vertical surfaces such as partition, ventilating louvers and vents, walls, trim, etc. not reached in nightly cleaning.

Dust tops of cabinets, files, partitions, etc. not reached in nightly cleaning.

Wash all glass partitions on interior walls and doors *once every three months*.

Machine strip, refinish and buff all resilient tile and other hard surfaced flooring using an approved, high solid, non-slip, non-staining, buffable floor finish *twice per year*.

Wash and clean baseboards during floor refinishing operations *twice per year*.

Wash and clean all vinyl base *once per year*.

#### **MAIN ENTRANCES AND ALL OTHER LOBBIES**

Dust-sweep and wash hard surfaced flooring. Remove gum, tar, and other foreign matter from flooring *nightly*.

Spray-buff marble, terrazzo and similar flooring using materials recommended by marble installer *nightly*.

If floor mats have been used during the day, they shall be thoroughly vacuumed and cleaned *nightly*.

Clean cigarette urns and replace sand or water as needed. CONTRACTOR shall supply sand *nightly*.

Dust baseboards, trim, louvers, moldings, pictures, planters, furnishings, guard stations, ledges and all other fixtures *nightly*.

Clean building directory, mail depository and all other decorative metal as needed, using a cloth dampened with water only *nightly*.

Completely clean all entrance and revolving door glass and entryway glass sidelights; clean all glass in building directory *nightly*.

Empty and clean all waste receptacles and remove waste material to designated areas in the building. Dispose of waste and replace plastic liners in accordance with building's recycling program *nightly*.

Remove dirt, finger marks, smudges, etc. from doors, door frames walls up to twelve feet, switch plates, glass, push plates, handles, railings, moldings, trim etc. Damp wipe metal trim as necessary using water only *nightly*.

Clean public telephones with germicidal spray product and disposable paper wipe. Discard wipe after each use. Dust the phone case and wooden booth using a cloth dampened with water only *nightly*.

Using materials recommended by marble installer, machine strip, refinish and buff marble and similar flooring using non-staining, non-slip, buffable floor finish as necessary but not less frequently than ***once per month***.

Do high dusting (as specified under tenant areas) ***once per month***.

Completely clean floor mats as necessary, but not less than ***once per month***, using method(s) recommended by floor mat manufacturer(s).

Wash all marble, granite and other similar wall surfaces ***once every six months***.

Clean lights, globes, and fixtures ***once every six months***.

#### **ELEVATOR LOBBIES AND PUBLIC CORRIDORS**

Dust sweep hard surfaced flooring with specially treated cloths to insure dust-free floors ***nightly***.

Wash and spray buff tile, terrazzo, marble, etc. flooring ***nightly***.

Thoroughly vacuum and remove spots and stains from carpeting, including edges and corners ***nightly***.

Empty and clean waste receptacles in accordance with building's recycling program (replace plastic liners), ash trays, etc., empty and clean cigarette urns and replace sand or water as needed ***nightly***.

Dust baseboards, trim, louvers, moldings, pictures, doors, planters, and all other fixtures, etc. within reach. Wipe clean all signage ***nightly***.

Remove dirt, finger marks, smudges, etc. from doors, door frames, wall, switch plates, glass, push plates, handles, railing, molding, trim, etc. Wipe metal trim as necessary using cloth dampened with water only ***nightly***.

Machine strip, refinish and buff resilient tile, terrazzo, marble, etc. flooring using approved, non-slip, non-staining, buffable floor finish ***once every two months***.

Do high dusting (as defined under tenant areas) ***once every two months***.

Completely clean carpeting ***once every three months***, using method(s) recommended by carpet manufacturer(s).

Wash marble, granite and other similar wall surfaces ***once every six months***.

Clean lights, globes, and fixtures as necessary but not less than ***once per year***.

#### **PUBLIC LAVATORIES**

Sweep and wash flooring with approved germicidal detergents at disinfectant strengths ***nightly***.

Wash and polish mirrors, and all chrome and other bright work including shelves, flushometers, exposed piping, toilet seat and partition hinges, dispensers, and all other washroom fixtures ***nightly***.

Wash all surfaces of toilets and urinals with approved germicidal detergent solution at disinfectant strength. Bowl cleaner to be used in the interior ***nightly***.

Wash clean all wash basins and counter tops *nightly*.

Spot clean partitions, tile walls, and doors with special attention to areas behind sinks, around urinals and around entrance. Remove graffiti *nightly*.

Replenish paper supplies as necessary as provided by *building*.

Empty and clean towel and sanitary disposal receptacles and waste material and refuse to designated area in the building using janitor carts/carriages. Replace liners in all receptacles with liners supplied by building. Wash clean receptacles *nightly*.

Clean and flush floor and other drains using germicidal detergent solutions *once per week*.

Refill toilet paper, paper towels, hand soap and sanitary products nightly. Supplies to be furnished by *building*.

Machine scrub flooring with approved germicidal detergent solution *once per month*. Floors shall be cleaned per manufacturer's recommendations.

Wash partition, tile walls and enamel painted surfaces with approved germicidal detergent solution *once per week*.

Remove hard water stains from toilet fixtures by using one ounce of bowl cleaner after normal cleaning. Follow manufacturer's recommendations.

Do high dusting and damp wipe ceiling vents *once per month*.

Wash clean lighting fixtures as needed *once per year*.

### STAIRWAYS

Police stairwells and remove trash and debris *daily*.

Spot clean doors and walls *daily*.

Dust mop stair and landings; dust handrails and other horizontal surfaces *weekly*.

Dust all vertical surfaces and light fixtures not dusted weekly *once per month*.

Wash stairs and landings *once per month*.

Do high dusting (as defined in tenant areas) in stairwells *once every three months*.

### ELEVATORS

Floors in elevator cabs will be properly maintained. Vacuum and remove spots from carpeted areas and sweep and wash hard surfaces *nightly*.

Clean and polish doors, inside and outside, using a cloth dampened with water only *nightly*.

Clean elevator saddles, door tracks, etc. keeping them free from dirt and debris, polish regularly as needed *nightly*.

Hand clean and polish baseboards, trim railings, etc. using a cloth dampened with water only on all bronze surfaces *nightly*.

Keep walls, panels, etc. clean and free from finger marks and smudges *nightly*.

Clean carpeting by method recommended by manufacturer as necessary, but not more frequently than *once per week*.

Wash clean and dry light fixtures and ceiling grilles.

**BUILDING SERVICE AREAS AND BUILDING EXTERIOR**

Keep locker rooms, showers, rest rooms, engineers' offices, security office, dock office, janitor closets, etc. in neat and clean condition at all times *nightly*.

Sweep dock, service corridor and receiving area and remove all trash and debris. Wet mop as needed *nightly*.

Wash flooring in dock, service corridors and receiving area *once per week*.

Machine scrub or pressure wash dock, service corridors and receiving area *once per month*.

**MISCELLANEOUS**

CONTRACTOR shall pad vacuums, carts and other equipment to prevent scratches and other damage in furniture, door frames, etc. Cleaning personnel shall be instructed not to pull cords around corners.

Report to building management any use of electrical/telephone closets for storage.

Report to building management any observed building deficiencies, e.g., leaking or inoperable faucets, plugged sinks or toilets, broken fixtures, inoperable lights or switches, loose baseboards, faulty locks, burned out light bulbs, etc.

At the conclusion of all work assignments, lights are to be turned off, doors closed and locked, chairs centered and gently pushed under tables or desks so as not to scratch furniture, and premises left in neat and orderly condition.

Return all keys, card keys, radios and any other building equipment signed out that day.

**EXHIBIT F****SPECIAL STIPULATIONS****63. Extension Option.**

(a) Subject to the terms, provisions, covenants, and conditions of this Section 63, Tenant is hereby granted the one-time right and option (the “**Extension Option**”) to extend the Term of this Lease with respect to the entirety of the Premises then demised hereunder for one (1) additional period of five (5) years commencing on January 1, 2034 and ending on December 31, 2038 (the “**Extended Term**”). The Extension Option shall be exercised by Tenant, if at all, by giving binding written notice thereof (the “**Extension Notice**”) to Landlord on or before, but not later than, December 31, 2032 (the “**Extension Option Exercise Date**”). In the event that Tenant fails to deliver the Extension Notice to Landlord by the Extension Option Exercise Date, Tenant shall be deemed to have irrevocably waived the Extension Option hereunder, and the same shall be null, void, and of no further force or effect, time being of the essence in the delivery of the Extension Notice hereunder.

(b) The Extended Term shall be on the same terms, provisions, covenants, and conditions of this Lease, excluding the provisions of (i) this Section 63, (ii) Subsection 6(b) of the Lease, (iii) Section 64 of this Exhibit F, and (iv) the Work Letter attached hereto, and except for the payment of Net Rent during the Extended Term. Tenant shall have no further rights to extend this Lease beyond the Extended Term. Any termination of this Lease during the Term or the Extended Term shall terminate all rights of Tenant hereunder. In addition to the Net Rent as hereinafter provided, Tenant shall and hereby agrees to continue to pay to Landlord Additional Rent during the Extended Term in accordance with the terms, provisions, covenants, and conditions of this Lease, including, without limitation, Section 7 hereof.

(c) The Net Rent during the Extended Term shall be at the Market Rental Rate (as hereinafter defined) applicable during such period (and subject to annual escalation as part of such determination). For purposes hereof, “**Market Rental Rate**” shall mean the net rental, as of the date for which such Market Rental Rate is being calculated, per annum, per rentable square foot for comparable space of comparable size for a similar term for comparably credit-worthy tenants in lease renewal transactions by reference to “first-class” space primarily in the Building, and secondarily in other Comparable Buildings, but excluding those leases where the tenant has an equity interest in the property, and taking into account, as appropriate, any then-applicable market concessions. Within thirty (30) days following Landlord's receipt of Tenant's written request therefor, which request may be submitted to Landlord at any time on or after September 1, 2032, Landlord shall advise Tenant of Landlord's determination of the Market Rental Rate at which Landlord is prepared to offer the Premises to Tenant for the Extended Term (“**Landlord's Market Rental Rate Notice**”). In the event that Tenant disagrees with Landlord's determination of the Market Rental Rate as set forth in the applicable Landlord's Market Rental Rate Notice, Tenant shall so advise Landlord in writing, and if Landlord and Tenant are unable to reach agreement on the applicable Market Rental Rate prior to the Extension Option Exercise Date, Tenant may elect to forego its exercise of the Extension Option as Tenant's sole and exclusive remedy hereunder, in which case the Extension Option shall be null, void, and of no further force or effect (and in no event shall the Extension Option Exercise Date be subject to extension due to any negotiation of the Market Rental Rate hereunder).

(d) The Extension Option is personal to the City of Chicago (and to any Permitted Transferee pursuant to a Permitted Transfer) and may not be exercised by or for the benefit of, nor shall such Extension Option extend to, any assignee, subtenant, or any other party (other than a Permitted Transferee pursuant to a Permitted Transfer). It shall be a condition of Tenant's right to exercise the Extension Option that (i) neither this Lease nor Tenant's right to possession hereunder shall have theretofore

been terminated, (ii) Tenant is not then in default under any of the terms, provisions, covenants, or conditions of this Lease at the time that Tenant delivers Tenant's Extension Notice or upon the commencement of the Extended Term, (iii) Tenant has not assigned this Lease, in whole or in part, or sublet all or any portion of the Premises (other than an assignment or sublease to a Permitted Transferee pursuant to a Permitted Transfer), at the time that Tenant delivers Tenant's Extension Notice or upon the commencement of the Extended Term, (iv) Tenant (or a Permitted Transferee pursuant to a Permitted Transfer) is then leasing and occupying the entirety of the Premises at the time that Tenant delivers Tenant's Extension Notice and upon the commencement of the Extended Term, (v) there has been no material adverse change in the financial condition of Tenant, as reasonably determined by Landlord, at the time that Tenant delivers Tenant's Extension Notice or upon the commencement of the Extended Term, and (vi) Tenant shall submit current audited and certified financial statements of Tenant (unless Tenant's financial statements are not audited, in which case reviewed and certified statements shall be acceptable) to Landlord concurrently with Tenant's Extension Notice. Tenant's Extension Option hereunder may not be severed from this Lease or separately sold, assigned, or otherwise transferred.

(e) In the event that Tenant exercises Tenant's Extension Option under this Section 63, Landlord and Tenant shall enter into a mutually and reasonably acceptable amendment to this Lease confirming the exercise of such Extension Option on the terms set forth herein promptly following the delivery of such amendment to Tenant hereunder, and in any event prior to the commencement of the Extended Term.

#### **64. Existing Sublease.**

(a) Landlord and Tenant acknowledge and agree that (i) Landlord, as landlord, and USCC Services, LLC, a Delaware limited liability company ("USCC"), as tenant, are parties to that certain Second Amended and Restated Office Lease dated as of April 1, 2016 (as heretofore amended from time to time, the "USCC Lease"), pursuant to which Landlord leases to USCC, and USCC leases from Landlord, certain space located in the Building and the Project, (ii) USCC, as sublessor, and Tenant, as sublessee, are parties to that certain Sublease Agreement dated as of September \_\_, 2024 (as amended from time to time, the "Existing Sublease"), whereby USCC is subleasing to Tenant, and Tenant is subleasing from USCC, the Premises to be demised hereunder, all for a term as currently set forth therein, and (iii) Existing Sublease was heretofore consented to by Landlord pursuant to that certain Consent to Sublease dated as of September \_\_, 2024 by and among Landlord, USCC, and Tenant (the "Sublease Consent"). In furtherance of the foregoing, Tenant represents and warrants to Landlord that, (y) the Existing Sublease shall, in accordance with its terms, remain in full force and effect until the date immediately preceding the Commencement Date hereunder, and (z) as of the Commencement Date hereunder, the Existing Sublease shall have expired in accordance with its terms, and neither USCC nor Tenant shall have any further rights in or to the Premises thereunder or otherwise (except for Tenant's rights under this Lease). Notwithstanding anything herein or in the Existing Sublease to the contrary, it is further acknowledged, understood, and agreed that Tenant is currently (or will be as of the Commencement Date hereunder) in occupancy of the Premises pursuant to the Existing Sublease, that there shall accordingly be no delay in the Commencement Date hereunder as a result of the Existing Sublease or otherwise, and that Tenant's continued use and occupancy of the Premises through the period ending on the date immediately preceding the Commencement Date hereunder shall be and remain subject to the terms, provisions, covenants, and conditions of the Sublease and the Consent.

(b) If, and to the extent that, the USCC Lease or USCC's right to possession thereunder is terminated prior to October 31, 2025, Landlord and Tenant agree that Tenant, as sublessee, shall attorn to Landlord, as sublessor, in accordance with the Sublease Consent, Landlord shall undertake the obligations of USCC, as sublessor, under the Existing Sublease as of the effective date of such attornment, and the Existing Sublease shall continue upon the terms and provisions set forth therein as between Landlord, as sublessor, and Tenant, as sublessee, for the period through and including October 31, 2025, but Landlord shall not (i) be liable

for any prepayment of more than one (1) month's rent or any security deposit paid by Tenant under the Existing Sublease, (ii) be liable for any previous act or omission of USCC under the USCC Lease or the Existing Sublease, or for any other defaults of USCC under the Existing Sublease, (iii) be subject to any defenses or offsets previously accrued which Tenant may have against USCC under or in connection with the Existing Sublease or otherwise, or (iv) be bound by any changes or modifications made to the Existing Sublease without the prior written consent of Landlord.

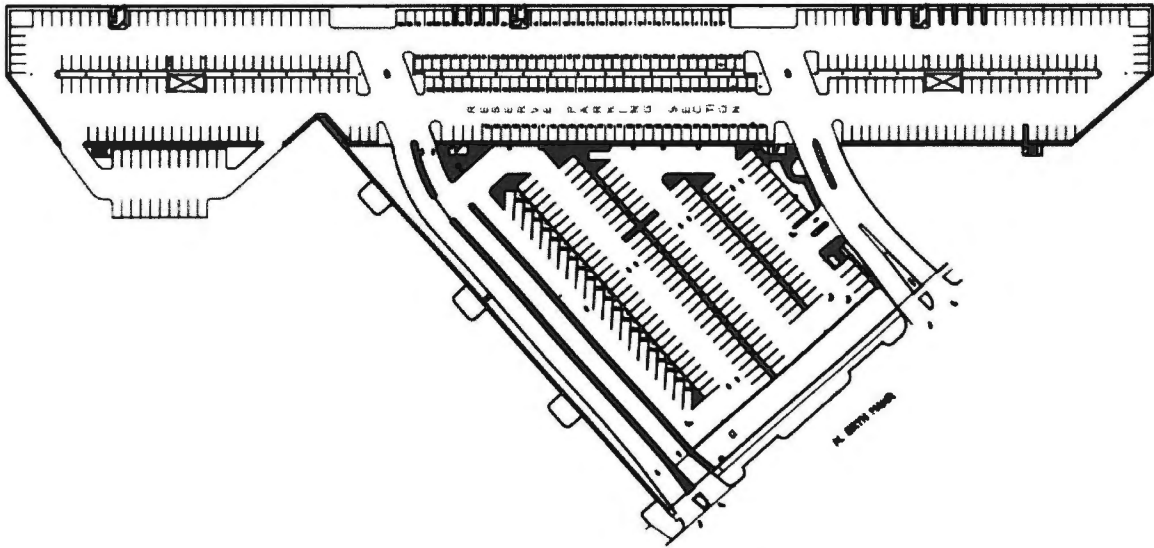
**65. City Rider.** The Rider (City Requirements) attached as *Exhibit H* to this Lease and incorporated herein (the "**City Rider**") are modifications to the terms, provisions, covenants, and conditions of this Lease and, if conflicting, such City Rider shall control in the event of any conflict with the other terms, provisions, covenants, or conditions of this Lease or any exhibits hereto. Notwithstanding anything herein or in the City Rider to the contrary, Tenant shall notify Landlord in writing of any alleged breach of Landlord's obligations under the City Rider and shall take no action with respect to such breach as long as Landlord promptly commences to cure such breach within thirty (30) days following Landlord's receipt of Tenant's written notice thereof and thereafter diligently proceeds to complete the cure of said breach within a reasonable time period, subject in all cases to Force Majeure Events and delays attributable to the acts or omissions of Tenant or any of the other Tenant Parties.

**66. Amenities.** Tenant shall have access to general Building and Project amenities, including, without limitation, conference facilities, fitness centers, tenant lounges, and the like, for so long as the same shall remain open, operational, and generally available to tenants and occupants of the Building and the Project, upon and subject to such terms, conditions, procedures, and requirements as are applicable to other tenants and occupants of the Building and the Project generally.

**67. Tenant Entity.** Notwithstanding anything herein to the contrary, it is acknowledged, understood, and agreed that the City of Chicago, a municipal corporation and home rule unit of local government organized and existing under Article VII, Sections 1 and 6(a), respectively, of the 1970 Constitution of the State of Illinois, as the named Tenant entity hereunder, is the same entity as "City of Chicago IL", the entity that serves as obligor for all General Obligation municipal indebtedness as issued by the City of Chicago and accordingly the "rated entity" as currently rated (BBB+) by Standard and Poor's and (A-) by Fitch.

**EXHIBIT G**

**RESERVED PARKING SECTION**



**EXHIBIT H****EXISTING SUBLEASE REMOVAL ITEMS**

- All Furniture (as such term is defined under Subsection 6.3 (Furniture) of the Existing Sublease)
- All Liebert Units on Floors 5, 6, 7, 8, and 9
- All UPS Systems on Floors 5 and 6
- All UPS Battery Cabinets on Floors 4 and 7
- All Leviton Lighting Controllers on Floors 5, 7, and 9
- All Dry Chemical Fire Suppression Systems and Equipment on Floor 9
- All Rooftop Condenser Units Serving Liebert Units on Floors 5, 6, 7, 8, and 9
- All Penthouse Pump Systems and Condenser Water Controllers

**EXHIBIT I****RIDER (CITY REQUIREMENTS)****1. Conflict of Interest and Governmental Ethics.**

(a) **Conflict of Interest.** No official or employee of the City of Chicago, nor any member of any board, commission or agency of the City of Chicago, shall have any financial interest (as defined in Chapter 2-156 of the Municipal Code), either direct or indirect, in the Premises; nor shall any such official, employee, or member participate in making or in any way attempt to use his or her position to influence any City governmental decision or action with respect to this Lease.

(b) **Duty to Comply with Governmental Ethics Ordinance.** The City and Landlord shall comply with Chapter 2-156 of the Municipal Code, "Governmental Ethics," including but not limited to section 2-156-120, which states that no payment, gratuity, or offer of employment shall be made in connection with any City of Chicago contract as an inducement for the award of that contract or order. Any contract negotiated, entered into, or performed in violation of any of the provisions of Chapter 2-156 shall be voidable as to the City of Chicago.

2. **Business Relationships.** Landlord acknowledges (a) receipt of a copy of Section 2-156-030(b) of the Municipal Code, (b) that it 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 described in Section 2-156-080 of the Municipal Code), 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) notwithstanding anything to the contrary contained in this Lease, 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 Lease shall be grounds for termination of this Lease and the transactions contemplated hereby. Landlord hereby represents and warrants that no violation of Section 2-145-030(b) has occurred with respect to this Lease or the transactions contemplated hereby.

3. **Patriot Act Certification.** Landlord represents and warrants that neither Landlord nor any Affiliate (as hereafter defined) thereof 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 Laws: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. As used in this Section, an "Affiliate" shall be deemed to be a person or entity related to Landlord that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with Landlord, 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 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.

4. **Prohibition on Certain Contributions-Mayoral Executive Order No. 2011-4.** Landlord agrees that Landlord, any person or entity who directly or indirectly has an ownership or beneficial interest in Landlord of more than 7.5 percent ("Owners"), spouses and domestic partners of such Owners, Landlord's contractors (i.e., any person or entity in direct contractual privity with Landlord regarding the subject matter of this Lease)

("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 (Landlord 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 the Mayor's political fundraising committee (a) after execution of this Lease by Landlord, (b) while this Lease or any Other Contract (as hereinafter defined) is executory, (c) during the Term of this Lease or any Other Contract, or (d) during any period while an extension of this Lease or any Other Contract is being sought or negotiated. This provision shall not apply to contributions made prior to May 16, 2011, the effective date of Executive Order 2011-4.

Landlord represents and warrants that from the later of (a) May 16, 2011, or (b) the date the City approached Landlord, or the date Landlord approached the City, as applicable, regarding the formulation of this Lease, no Identified Parties have made a contribution of any amount to the Mayor or to the Mayor's political fundraising committee.

Landlord 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 the Mayor's political fundraising committee.

Landlord agrees that the Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

Notwithstanding anything to the contrary contained herein, Landlord agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this Lease or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Lease, 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 Lease, and under any Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Landlord intentionally violates this provision or Mayoral Executive Order No. 2011-4 prior to the execution of this Lease, the City may elect to decline to execute this Lease.

For purposes of this provision:

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

(b) "Other Contract" means any other agreement with the City to which Landlord is a party that is (i) formed under the authority of Chapter 2-92 of the Municipal Code; (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.

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

(d) Individuals are "domestic partners" if they satisfy the following criteria:

- (i) they are each other's sole domestic partner, responsible for each other's common welfare; and
- (ii) neither party is married; and
- (iii) the partners are not related by blood closer than would bar marriage in the State of Illinois; and
- (iv) 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
- (v) 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) 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.

- (e) "Political fundraising committee" means a "political fundraising committee" as defined in Chapter 2-156 of the Municipal

Code, as amended.

5. Waste Ordinance Provisions. In accordance with Section 11-4-1600(e) of the Municipal Code, Landlord warrants and represents that it, and to the best of its knowledge, its contractors and subcontractors, have not violated and are not in violation of any provisions of Section 7-28 or Section 11-4 of the Municipal Code (the "Waste Sections"). During the period while this Lease is executory, Landlord's, any general contractor's or any subcontractor's violation of the Waste Sections, whether or not relating to the performance of this Lease, constitutes a breach of and an event of default under this Lease, for which the opportunity to cure, if curable, will be granted only at the sole designation of the Chief Procurement Officer. Such breach and default entitles the City to all remedies under the Lease, at law or in equity. This section does not limit Landlord's, general contractor's and its subcontractor's duty to comply with all applicable federal, state, county and municipal laws, statutes, ordinances and executive orders, in effect now or later,

and whether or not they appear in this Lease. Non-compliance with these terms and conditions may be used by the City as grounds for the termination of this Lease, and may further affect Landlord's eligibility for future contract awards.

6. Failure to Maintain Eligibility to Do Business with the City. Failure by Landlord or any controlling person (as defined in Section 1-23-010 of the Municipal Code) thereof to maintain eligibility to do business with the City of Chicago as required by Section 1-23-030 of the Municipal Code shall be grounds for termination of this Lease and the transactions contemplated thereby. Landlord shall at all times comply with Section 2-154-020 of the Municipal Code.

7. Cooperation with Office of Inspector General. It is the duty of Landlord and any bidder, proposer, contractor, subcontractor, and every applicant for certification of eligibility for a City contract or program, and all officers, directors, agents, partners, and employees of any such grantee, subgrantee, bidder, proposer, contractor, subcontractor or such applicant to cooperate with the Inspector General in any investigation or hearing undertaken pursuant to Chapter 2-56 of the Municipal Code. Landlord represents and warrants that it understands and will abide by all provisions of Chapter 2-56 of the Municipal Code and that Landlord will inform its Contractors and Subcontractors of this provision and require their compliance.

8. 2014 Hiring Plan Prohibitions.

(a) The City is subject to the June 16, 2014 "City of Chicago Hiring Plan", as amended (the "2014 City Hiring Plan") entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United States District Court for the Northern District of Illinois). Among other things, the 2014 City Hiring Plan prohibits the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

(b) Landlord is aware that City policy prohibits City employees from directing any individual to apply for a position with Landlord, either as an employee or as a subcontractor, and from directing Landlord to hire any individual as an employee or as a subcontractor. Accordingly, Landlord must follow its own hiring and contracting procedures, without being influenced by the City or City employees. Any and all personnel provided by Landlord under this Lease are employees or subcontractors of Landlord, not employees of the City. This Lease is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by Landlord.

(c) Landlord will not condition, base, or knowingly prejudice or affect any term or aspect of the employment of any personnel provided under this Lease, or offer employment to any individual to provide services under this Lease, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership in a political organization or party, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Lease, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.

(d) In the event of any communication to Landlord by a City employee or City official in violation of paragraph (ii) above, or advocating a violation of paragraph (iii) above, Landlord

will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General ("OIG Hiring Oversight"), and also to the head of the relevant City department utilizing services provided under this Lease. Landlord will also cooperate with any inquiries by OIG Hiring Oversight.

**COMMITTEE ON THE BUDGET AND GOVERNMENT OPERATIONS.**

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AMENDMENT OF CHAPTER 16-14 OF MUNICIPAL CODE BY MODIFYING SECTIONS 16-14-020, 16-14-060, 16-14-070 AND 16-14-080 REGARDING NEIGHBORHOOD OPPORTUNITY FUND PROGRAM.

[SO2024-0011016]

The Committee on the Budget and Government Operations submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on the Budget and Government Operations, having had under consideration a substitute ordinance concerning an amendment of Municipal Code Section 16-14 regarding Neighborhood Opportunity Fund Program (SO2024-0011016), begs leave to report and recommend that Your Honorable Body *Pass* the proposed substitute ordinance transmitted herewith.

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

(Signed) JASON C. ERVIN,  
*Chair.*

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

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Harris moved to reconsider the foregoing vote. The motion was lost.

The following is said ordinance as passed:

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

SECTION 1. Chapter 16-14 of the Municipal Code of Chicago is hereby amended by deleting the language struck through, and by adding the language underscored, as follows:

16-14-020 Definitions.

For purposes of this chapter, the following definitions shall apply:

(Omitted text is unaffected by this ordinance.)

“Group I Award” means, with respect to an individual development project funded under this chapter, a grant in an aggregate amount of ~~\$250,000.00~~300,000.00 or less, excluding any Pre-Development Award with respect to such project.

(Omitted text is unaffected by this ordinance.)

“Group II Award” means, with respect to an individual development project funded under this chapter, a grant in an aggregate amount exceeding ~~\$250,000.00~~300,000.00 and less than \$5,000,000.00, including any Local Residency Bonus, but excluding any Pre-Development Award, with respect to such project.

16-14-060 Authorized Uses.

The following uses are authorized uses of the Neighborhood Opportunity Fund:

(Omitted text is unaffected by this ordinance.)

(d) mixed-use projects consisting of one or more non-residential uses, plus at least 10 or more residential units; ~~and~~

(e) incubation, mentoring and training of small businesses that otherwise qualify as authorized uses under subsections (a) through (d) of this section-; and

(f) loan loss reserve funding arrangements granted to qualified Community Development Financial Institutions (CDFIs) or other qualified delegates for the purpose of reducing the risk of lending private capital to NOF program participants otherwise having difficulty qualifying to borrow using traditional business debt instruments from mainstream lenders.

16-14-070 Eligible Costs.

The Neighborhood Opportunity Fund may be used for the following costs when such costs are necessary or desirable for, or in support of, one or more authorized uses:

(a) costs to acquire, rehabilitate, or demolish substandard, obsolete, or vacant buildings, ~~not to exceed 50 percent of total project costs;~~ subject to the following limitations:

(i) for Group I Awards, eligible costs under this subsection (a) shall not exceed 75 percent of total project costs; and

(ii) for Group II Awards, eligible costs under this subsection (a) shall not exceed 50 percent of total project costs;

(b) costs to construct new buildings, ~~not to exceed 50 percent of total project costs;~~ subject to the following limitations:

(i) for Group I Awards, eligible costs under this subsection (b) shall not exceed 75 percent of total project costs; and

(ii) for Group II Awards, eligible costs under this subsection (b) shall not exceed 50 percent of total project costs;

(Omitted text is unaffected by this ordinance.)

(g) Small Business Development Costs, provided that such business support services costs shall not exceed ~~5~~ 15 percent of the Neighborhood Opportunity Fund; and

(h) administrative, reporting and monitoring costs and expenses of the Neighborhood Opportunity Fund, provided such costs and expenses may not exceed ~~5~~ 15 percent of the Neighborhood Opportunity Fund.

16-14-080 Administration.

(Omitted text is unaffected by this ordinance.)

(d) Subject to the availability of duly appropriated funds, the Group I Program Funding Limit shall be \$75,000,000.00, up to \$5,000,000.00 of which may be utilized for the purposes set forth in Section 16-14-060(f) of this Code, as of the effective date of this amendatory ordinance of 2024, unless such amount is increased or decreased by appropriate action of the City Council.

SECTION 2. This ordinance shall be in full force and effect following due passage and approval.

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REDEVELOPMENT AGREEMENT WITH PLANT CHICAGO, NFP TO PROVIDE NEIGHBORHOOD OPPORTUNITY FUNDS FOR RENOVATION OF FORMER CHICAGO FIREHOUSE AT 4459 S. MARSHFIELD AVE.

[O2024-0010966]

The Committee on the Budget and Government Operations submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on the Budget and Government Operations, having had under consideration an ordinance concerning a redevelopment agreement with Plant Chicago, NFP, to provide neighborhood opportunity funds for renovation of former firehouse at 4459 South Marshfield Avenue(O2024-0010966), begs leave to report and recommend that Your Honorable Body *Pass* the ordinance transmitted herewith.

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

(Signed) JASON C. ERVIN,  
*Chair.*

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

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodriguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

The following is said ordinance as passed:

WHEREAS, The City of Chicago (the "City") is a home rule unit of government under Article VII, Section 6(a) of the Constitution of the State of Illinois and, as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, The City is authorized under its home rule powers to regulate the use and development of land; and

WHEREAS, Section 16-14-010, et seq., of the Municipal Code of Chicago (the "Code") contains the Neighborhood Opportunity Fund Ordinance (the "NOF Ordinance") establishing the Neighborhood Opportunity Fund (the "NOF"); and

WHEREAS, The purpose of the NOF is to: (a) promote growth within the downtown area through the floor area bonus provisions of Section 17-4-1000 of the Code and simultaneously generate new revenues for investment in business development and job growth in neighborhoods impacted by poverty, high unemployment and other indicators of economic deprivation; (b) strengthen neighborhood commercial corridors in qualified investment areas; and (c) address the decline of private investment in qualified investment areas that damages the City's overall economic competitiveness, impedes the sustainable and equitable development of the City as a whole, contributes to inequality and poverty, and has a detrimental effect on the City's quality of life; and

WHEREAS, The NOF shall be used for projects located in or directly benefiting qualified investment areas, as indicated on a map published by the Commissioner (the "Commissioner") of the Department of Planning and Development ("DPD") and updated at least once every five years; and

WHEREAS, The authorized uses of the NOF are for eligible costs (as defined in the NOF Ordinance) related to: (a) commercial establishments that provide, on a permanent or short-term (pop-up) basis, goods and services which complement and revitalize the areas

in which they are located and which may include, without limitation, grocery stores, retail establishments, and restaurants that sell food primarily for consumption on premises; (b) cultural establishments that provide, on a permanent or short-term (pop-up) basis, recreational and educational opportunities which complement and revitalize the areas in which they are located; and (c) incubation, mentoring, and training of small businesses that otherwise qualify as authorized uses under (a) or (b) above; and

WHEREAS, DPD has determined that the applicant named in Exhibit A attached hereto (the "Grantee") meets the requirements of the NOF Ordinance and is eligible to receive a NOF grant for the project described in Exhibit A, in the amount and under the terms and conditions set forth in Exhibit A (the "Grant"); and

WHEREAS, DPD has recommended that the City Council of the City approve the Grant to the Grantee; 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. 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 a redevelopment agreement with the Grantee and to execute such agreements and instruments and perform any and all acts as shall be necessary or advisable in connection with the implementation of the Grant. The execution of such agreements and instruments and the performance of such acts shall be conclusive evidence of such approval. 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 Grant 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 Grant to the Grantee.

SECTION 3. NOF proceeds in the amount set forth in Exhibit A are hereby appropriated for the purposes described herein.

SECTION 4. To the extent that any ordinance, resolution, rule, order or provision of the Code, 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 other provisions of this ordinance.

SECTION 5. This ordinance shall be in full force and effect from and after the date of its passage and approval.

[Exhibit "A" referred to in this ordinance printed on  
pages 16328 through 16335 of this *Journal*.]

*Exhibit "A".**Project Plan And Scope.*

March 29, 2022  
Last Revised: July 3, 2024

Jonathan Pereira  
Plant Chicago, NFP  
4459 S Marshfield Ave  
Chicago, IL 60609

**RE: Conditional Commitment of Neighborhood Opportunity Funds**

Dear Jonathan,

The City of Chicago ("City") Department of Planning and Development ("DPD") congratulates Plant Chicago, NFP on being selected as a Neighborhood Opportunity Fund ("NOF") Large Finalist ("Finalist") for the capital project located at 4459 S Marshfield Ave! Pending approval from City Council and execution of a Redevelopment Agreement ("RDA"), Plant Chicago, NFP will be an NOF Large Grantee ("Grantee").

Plant Chicago, NFP has received a **conditional commitment** of up to **\$825,000** in NOF funds ("City Grant"), which includes **\$750,000** in construction costs ("Base Grant" or "Capital Grant"), and **\$75,000** in Local Hiring Funds for the Project (defined below).

The Project was selected for the plan and scope of work presented in the application and summarized below. Any changes to the proposed project plan or scope of work without DPD's prior written approval may result in forfeiture of the City Grant.

**PROJECT ADDRESS**

4459 S Marshfield Ave  
20-06-411-023-0000  
20-06-411-024-0000

(The address and PINS collectively, the "Property")

**PROJECT PLAN & SCOPE**

The Project will renovate a former Chicago firehouse in the Back of the Yards neighborhood to be a center for circular economy programming. Renovations are a mixture of accessibility, aesthetic, environmental, and functional. The largest portions of the renovations include: decarbonizing HVAC by replacing old gas powered heaters with efficient electric air source heat pumps, tuckpointing the exterior and cleaning up graffiti, insulating the roof, replacing metal garage doors with glass ADA pass through doors, and installing ADA bathrooms. When complete, the Project will have the only shared use indoor farm in the city where residents are provided equipment, indoor "plots" and knowledge community for growing food year-round. (the "Project")

**PROJECT SOURCES & USES**

Anticipated Project Funds (Sources)*		Anticipated Project Costs (Uses)	
Equity	\$11,929	Acquisition Costs	\$508,129
Lender Financing	\$839,400	Site Preparation Costs	\$49,000
Other Funds	\$220,000	Hard Costs	\$956,578
Base Grant	\$750,000	Soft Costs	\$307,622
<b>Total</b>	<b>\$1,821,329</b>	<b>Total</b>	<b>\$1,821,329</b>

\*The Local Hiring Funds are available after project completion and therefore cannot be considered part of the Project capital stack.

**CAPITAL GRANT PAYMENT**

The Capital Grant may be disbursed as progress payments through a project escrow, or as a single, 100% reimbursement upon project completion. The Finalist must select a payment method before executing the RDA.

*Project Escrow*

Grantees may establish a project escrow account at their own cost, and receive four, incremental disbursements of their Capital Grant during construction. The fourth, and final, disbursement is provided following the completion of the Project and DPD’s issuance of a Certificate of Completion (“Certificate”). Each escrow draw requires review and approval of Grantee’s documentation by DPD. Grantees who elect to receive their Capital Grant via a project escrow must execute an escrow agreement with DPD and the title company concurrently with the execution of the RDA.

*Single Reimbursement*

Grantees may receive a one-time disbursement of 100% of their Capital Grant following the completion of the Project and DPD’s issuance of the Certificate.

**GRANT STRUCTURE**

Before any City Grant funds are disbursed, Grantees will be required to submit evidence of eligible costs.

*Base Grant*

Rehabilitation projects are eligible to receive up to 50% of total project costs. New construction projects are eligible to receive up to 30% of total project costs, to the extent that eligible costs such as land acquisition or site preparation are documented. In no case may the total Capital Grant exceed the program’s \$2.5 million grant limit.

Ineligible project costs include furnishings, fixtures and equipment (FF&E); fees generally related to accounting, marketing, permitting, equipment rental, or construction management; and hard and soft contingencies unrelated to eligible project costs.

*Local Hiring Funds*

Each Grantee is entitled to up to \$75,000 in additional funds, exclusive of their grant amount, to reimburse wage expenses or training costs associated with hiring at least two or more new employees who maintain their primary residence in the Qualified Investment Area (“QIA”). These funds are disbursed following the issuance of the Certificate, for eligible costs incurred no earlier than three months prior to, and no later than 12 months following, receipt of the Certificate. The new, qualifying employees:

- Must maintain their primary residence in the QIA
- Must work at least 20 hours/week, achieving at least 60 hours/week across all qualifying employees

- Must receive at least minimum wage, as defined by the City of Chicago
- Must be continually employed for a minimum of 12 weeks
- May not include the Grantee's family members (by blood or marriage), persons dwelling at the Grantee's primary residency, or the Grantee himself.

Grantees are advised to keep a separate record of wage expenses for the qualifying employees in an organized file for reimbursement. Requests for reimbursement can only be submitted once per calendar quarter. Grantees must submit the following documents with their reimbursement requests to verify the new employees' home addresses and wage expenses:

- Evidence of eligible project costs incurred and paid by the Grantee
- Employee Worksheet Form (included in the RDA) listing all new hires, their primary residences, their hourly wages, and their average weekly hours worked.
- Payroll ledgers and/or copies of pay stubs that verify hours worked, hourly wage, and address for employees.

#### **SUMMARY OF GRANT COVENANTS**

The following is a summary of important City Grant covenants to which the Grantee must adhere. The RDA will contain a complete list of all City Grant covenants.

Grantees shall not do any of the following without prior, written consent from DPD, for the Term of the Agreement: be a party to any merger, liquidation or consolidation; sell, transfer, convey, lease or otherwise dispose of all or substantially all of their assets or any portion of the project property (including but not limited to any fixtures or equipment now or hereafter attached thereto) except in the ordinary course of business; enter into any transaction outside the ordinary course of Grantee's business; assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity; or enter into any transaction that would cause a material and detrimental change to Grantee's financial condition.

#### *Operations & Occupancy Covenants*

Grantees must continuously own, occupy, and/or operate the entirety of the Project for three years following the issuance of the Certificate. If a Grantee fails to satisfy these requirements, the City shall have the right to cease the payment of the City Grant, terminate the RDA, or place a lien on the Project property in the value of disbursed City Grant.

#### *Annual Compliance Report*

Grantees must submit an Annual Compliance Report for at least three years following the issuance of the Certificate. Requirements for the Annual Compliance Reports will be detailed in the RDA.

#### **GRANT CONDITIONS**

Issuance of the City Grant is subject to the Finalist's ability to fulfill the following conditions, and City Council approval. Following City Council approval of the City Grant, the Grantee will be required to execute the RDA with the City, through DPD, which details the legal requirements of the Project and the process for receiving the City Grant.

#### *Conditions for Submission to City Council for Approval for the City Grant*

The following must be submitted to your Project Manager by Tuesday, December 3, 2024 to prepare for submission to City Council for approval.

1. **Pre-Construction Compliance Meeting:** The Finalist, general contractor, and all major subcontractors must meet with Construction Compliance staff to review the Finalist's plan to achieve the City's Construction Compliance obligations (MBE/WBE, City Residency and Prevailing Wage Requirements), as established in the RDA and as mandated by City ordinance and DPD policy.
2. **Final Contractor Estimates:** The Finalist must submit at least two, final and comprehensive contractor estimates for the final Project scope of work. All estimates must reflect the same scope of work and final Project Budget, as well as account for the City's M/WBE, Prevailing Wage and City Residency construction compliance requirements.
3. **Final Project Budget:** The Finalist must submit a final Project budget. The City Grant amount in this letter will not be increased; therefore, the Finalist must assume the responsibility of any Project cost increases following City Council approval.
4. **Final Design Documents:** The Finalist must submit, at a minimum, a final site plan, final renderings, and final elevations for the Project. All DPD comments on the Project design should be addressed prior to seeking City Council approval.
5. **Final Zoning Approval:** The Finalist must verify that all proposed Project uses and physical improvements comply with the zoning requirements for the Project location. If the Project uses and/or improvements require a zoning map amendment, licenses, or permits, the Finalist must provide evidence of the approved zoning map amendment, secured licenses and/or permits, and Aldermanic input.
6. **Preliminary Project Financing:** The Finalist must submit proof of project financing, demonstrating that all sources of funds outside of the City Grant are available and secured, or will be secured by closing. The Finalist must close on all financing sources on or before executing the RDA.
7. **Preliminary Site Control:** The Finalist must submit the following proof of site control, demonstrating that the Project location is secured, or will be secured by closing. The Finalist must secure site control on or before executing the RDA.
  - a) Tenant Finalists: Letter of Interest or executed lease (for at least three years) for the Project location.
  - b) Owner-Occupied Finalists: Deed or Real Estate Purchase Agreement (demonstrating closing within 90 days), for the Project location.
  - c) Property Owner Finalists: Deed or Real Estate Purchase Agreement (demonstrating closing within 90 days), for the Project location; AND letters of interest or executed tenant leases, for at least three years, for at least 75% of the Project.

*Conditions for Executing the RDA*

Following City Council's approval, the Grantee must satisfy the conditions below before the City will execute and deliver the RDA, unless the City waives such conditions in writing. The following must be secured within one month of receiving City Council approval to close on the RDA.

1. **Final Project Financing:** If not yet submitted, the Grantee must submit proof of project financing, evidencing that all financing sources outside of the Capital Grant have been secured and are available.
2. **Final Site Control:** If not yet submitted, the Grantee must submit the following proof of site control, evidencing that the Project location has been secured:
  - a) Tenant Grantees: Executed lease for at least three years for the Project location AND written evidence of property owner's consent to record the RDA against the tenant's leasehold interest in the Project location.
  - b) Owner-Occupied Grantee: Deed for the Project location.
  - c) Property Owner Grantee: Deed for the Project location; AND executed tenant leases, for at least three years, for at least 75% of the Project.

3. **Escrow Agreement:** If the Grantee elects to receive the Capital Grant via progress payments (escrow), the escrow agreement between the City, title company and Grantee must be fully executed.
4. **Building Permits:** The Grantee must submit proof of all permits required by the City's Municipal Code for work associated with the Project for all corresponding costs to be eligible for reimbursement.

#### *Conditions for Receiving the Certificate*

The Grantee must complete project construction and receive a Certificate within the timeframe dictated by the executed RDA, or the Project will be considered in default, the City Grant may be forfeited, and the RDA may be terminated. The Certificate *must* be issued within two years of the RDA execution date.

1. **MBE/WBE Requirements:** The Grantee must fulfill at least 26% Minority Business Enterprise (MBE) and 6% Women Business Enterprise (WBE) participation for all direct and indirect construction costs associated with the Project.
2. **City Residency Requirements:** The Grantee must hire City residents to perform 50% of all construction hours.
3. **Prevailing Wage Requirements:** The Grantee must adhere to the City's prevailing wage requirement for all construction trades, as established by the Illinois Department of Labor.
4. **Certificate of Occupancy:** The Grantee must obtain and submit proof of all permits required by the City's Municipal Code to occupy the Project premises.
5. **Business Licenses:** The Grantee must obtain all necessary business licenses.
6. **Documentation:** The Grantee must appropriately document all eligible project costs. Documentation includes, but is not limited to, detailed invoices, cancelled checks, sworn owner's statement, sworn statement of contractor and subcontractor to owner and final lien waivers.

#### **PROJECT EXTENSION, WITHDRAWAL AND TERMINATION POLICIES**

##### *Project Deadline Extension*

Grantees are allowed to request up to two extensions to satisfy the conditions for all milestones leading to RDA execution. Grantees in need of an extension during this time must submit a written request to DPD justifying the need for the extension. DPD will issue extension approvals and durations, in writing, at its discretion. DPD will withdraw City Grants for Grantees who are unable to satisfy the conditions after exhausting their extensions.

##### *Project Withdrawal*

Finalists or Grantees must provide written notification to DPD staff of their intent to rescind their City Grant and withdraw from the program. DPD staff will send the Finalist or Grantee an email confirmation of the Project's withdrawal and the return of the allocated City Grant.

##### *Project Termination*

DPD staff will send the Finalist or Grantee notification via email and postal mail to the above address regarding termination of the Project and the return of the allocated City Grant. All questions regarding the conditions outlined in this letter, and general City requirements and procedures, can be addressed to William Grams ([william.grams@cityofchicago.org](mailto:william.grams@cityofchicago.org)) or 312-744-0896.

We look forward to supporting your efforts to revitalize the City's South, Southwest and West sides.

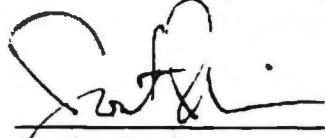
Sincerely,

A handwritten signature in black ink, appearing to read 'W. Jeffries', written in a cursive style.

**William Jeffries**  
Deputy Commissioner  
Department of Planning and Development

**On behalf of Plant Chicago, NFP, I accept the above terms and conditions of this *Conditional Commitment of Neighborhood Opportunity Funds* offered by the City of Chicago.**

July 10, 2024  
Date

  
\_\_\_\_\_  
Jonathan Pereira

EXECUTIVE DIRECTOR  
Title

Return one copy of this letter to:

City of Chicago  
Department of Planning and Development  
Attention: William Grams  
121 North LaSalle Street, RM 1003  
Chicago, IL 60602

**NOF-LARGE DELIVERABLE SUMMARY CHECKLIST & SCHEDULE**

<b>Milestone #1: Conditional Commitment of Funds (Letter)</b>		
<input checked="" type="checkbox"/>	<b>Conditions for Next Milestone</b>	<b>Time to Next Milestone</b>
	Final Contractor Estimates (2)	<u>5 MONTHS</u>
	Final Project Budget	
	Final Zoning	
	Final Design Documents	
	Preliminary (Final acceptable) Project Financing Documentation	
	Preliminary (Final acceptable) Site Control Documentation	
<b>Milestone #2: Council Approval (City Grant Authorization)</b>		
<input checked="" type="checkbox"/>	<b>Conditions for Next Milestone</b>	<b>Time to Next Milestone</b>
	Final Project Financing Documentation	<u>1 MONTH</u>
	Final Site Control Documentation	
	Grant Payment Election (executed escrow agreement, if applicable)	
	Building Permits Secured	
<b>Milestone #3: Project Closing (Executed RDA)</b>		
<input checked="" type="checkbox"/>	<b>Conditions for Next Milestone</b>	<b>Time to Next Milestone</b>
	M/WBE Construction Compliance Requirements Fulfilled	<u>24 MONTHS</u>
	City Residency Construction Compliance Requirements Fulfilled	
	Prevailing Wage Construction Compliance Requirements Fulfilled	
	Occupancy Permits Secured	
	Business Permits Secured	
	Business Licenses Secured	
	Project Cost Documentation (invoices, sworn statements, lien waivers)	
<b>Milestone #4: Project Completion (Certificate of Completion)</b>		

SUPPLEMENTAL APPROPRIATION AND AMENDMENT OF YEAR 2024 ANNUAL APPROPRIATION ORDINANCE WITHIN FUND NO. 925.

[SO2024-0010956]

The Committee on the Budget and Government Operations submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on the Budget and Government Operations, having had under consideration a substitute ordinance concerning an Annual Appropriation Ordinance Year 2024 amendment within Fund Number 925 (SO2024-0010956), begs leave to report and recommend that Your Honorable Body *Pass* the proposed substitute ordinance transmitted herewith.

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

(Signed) JASON C. ERVIN,  
*Chair.*

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

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

The following is said ordinance as passed:

WHEREAS, The Annual Appropriation Ordinance for the year 2024 (the "2024 Appropriation Ordinance") of the City of Chicago (the "City") contains estimates of revenues receivable as grants from agencies of the state and federal governments and public and private agencies; and

WHEREAS, The City through its Department of Public Health ("CDPH") has been awarded additional state grant funds in the amount of \$575,000 by the Illinois Department of Human Services ("IDHS") for the Family Connects program, the total amount of which will be appropriated to two separate line items as specified in Exhibit A; and

WHEREAS, The City through CDPH has been awarded additional state grant funds in the amount of \$55,000 by IDHS for the Women, Infants and Children Nutrition program; and

WHEREAS, The City through CDPH has been awarded additional federal carryover grant funds in the amount of \$1,162,185 by the United States Department of Health and Human Services ("HHS") for the Ending HIV Epidemic -- Ryan White program; and

WHEREAS, The City through CDPH: (1) previously appropriated federal grant funds from HHS under two separate line items in the total amount of \$8,500,000, of which \$4,700,000 was for the HIV Surveillance and Prevention program and \$3,800,000 was for the Integrated HIV Programs to Support Ending the HIV Epidemic, and now desires to transfer the balance of \$8,500,000 to a new line item for the High-Impact HIV Prevention and Surveillance Programs for Health Departments program; and (2) has now been awarded additional federal grant funds in the amount of \$595,000 by HHS which will now be appropriated to the above-mentioned new line item; and

WHEREAS, The City through CDPH has been awarded federal grant funds in the amount of \$600,000 by HHS for the Support and Scale Up of HIV Prevention program; and

WHEREAS, The City through its Department of Family and Support Services has been awarded additional federal grant funds in the amount of \$16,099,000 by the United States Department of Homeland Security for the Shelter and Services program; and

WHEREAS, The City through its Department of Transportation ("CDOT") has been awarded federal pass-through grant funds in the amount of \$1,000,000 by the Illinois Department of Transportation ("IDOT") for the Bridge Investment Program; and

WHEREAS, The City through CDOT has been awarded additional federal pass-through grant funds in the total amount of \$12,826,000, of which: (a) \$8,891,000 is being provided by Chicago Transit Authority; and (b) \$3,935,000 is being provided by the Regional Transportation Authority for the Congestion Mitigation and Air Quality (CMAQ) program; and

WHEREAS, The City through CDOT has been awarded federal grant funds in the amount of \$3,825,000 by the United States Environmental Protection Agency for the Diesel Emission Reduction Act (DERA) program; now, therefore,

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

SECTION 1. The amount of \$36,737,185 is hereby appropriated from Fund 925 -- Grant Funds for the year 2024. The 2024 Annual Appropriation Ordinance is hereby amended by striking the words and figures and adding the words and figures indicated in the attached Exhibit A which is hereby made a part hereof.

SECTION 2. 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 3. This ordinance shall be in full force and effect upon its passage and approval.

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

*Exhibit "A".  
Amendment To The 2024 Appropriation Ordinance.*

Code	Department And Item	Strike Amount	Add Amount	Strike Amount (2024 Total) Includes Anticipated Carryover	Add Amount (2024 Total) Includes Anticipated Carryover	Strike Amount (2024 Total)	Add Amount (2024 Total)
<b>Estimate Of Grant Revenue For 2024</b>							
	Awards from Agencies of the Federal Government	\$2,705,965,296	\$2,742,072,481				
	Awards from Agencies of the State of Illinois	922,918,000	923,548,000				
<b>925 -- Grant Funds</b>							
Department Number	Department And Grant Name	Strike Amount 2024 Anticipated Grant	Add Amount 2024 Anticipated Grant	Strike Amount (2024 Total) Includes Anticipated Carryover	Add Amount (2024 Total) Includes Anticipated Carryover	Strike Amount (2024 Total)	Add Amount (2024 Total)
41	Department Of Public Health:						
	Family Connects	\$ 600,000	\$ 750,000	\$ 600,000	\$ 750,000	\$ 600,000	\$ 750,000
	Family Connects	500,000	925,000	500,000	925,000	500,000	925,000
	Women, Infants and Children Nutrition	5,000,000	5,055,000	5,000,000	5,055,000	5,000,000	5,055,000
	Ending HIV Epidemic -- Ryan White			\$5,219,310	\$6,381,495	8,924,988	10,087,173

Department Number	Department And Grant Name	Strike Amount 2024 Anticipated Grant	Add Amount 2024 Anticipated Grant	Strike Amount (2024 Total) Includes Anticipated Carryover	Add Amount (2024 Total) Includes Anticipated Carryover	Strike Amount (2024 Total)	Add Amount (2024 Total)
	HIV Surveillance and Prevention	\$ 4,700,000		\$ 4,700,000		\$ 4,700,000	
	Integrated HIV Programs to Support Ending the HIV Epidemic	3,800,000		3,800,000		3,800,000	
	High-Impact HIV Prevention and Surveillance Programs for Health Departments		\$ 9,096,000		\$ 9,096,000		\$ 9,096,000
	Support and Scale Up of HIV Prevention		600,000		600,000		600,000
50	Department Of Family And Support Services:						
	Shelter and Services Program	20,000,000	36,099,000	20,000,000	36,099,000	20,000,000	36,099,000
84	Department Of Transportation:						
	Bridge Investment Program		1,000,000		1,000,000		1,000,000
	Congestion Mitigation and Air Quality (CMAQ)	175,198,000	188,024,000	175,198,000	188,024,000	189,013,911	201,839,911
	Diesel Emission Reduction Act (DERA)		3,825,000		3,825,000		3,825,000

TRANSFER OF YEAR 2024 FUNDS WITHIN COMMITTEE ON WORKFORCE DEVELOPMENT.

[O2024-0011009]

The Committee on the Budget and Government Operations submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on the Budget and Government Operations, having had under consideration an ordinance concerning a transfer of Year 2024 funds within Committee on Workforce Development (O2024-0011009), begs leave to report and recommend that Your Honorable Body *Pass* the proposed ordinance transmitted herewith.

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

(Signed) JASON C. ERVIN,  
*Chair.*

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

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

The following is said ordinance as passed:

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

SECTION 1. The City of Chicago's Comptroller is authorized and directed to make the following transfer of funds for the Year 2024. This transfer will leave sufficient unencumbered appropriations to meet all liabilities that have been or may be incurred during said year payable from such appropriations:

FROM:

Purpose	Fund	Code/Department	Account	Amount
Personnel Services	0100	0152290	0000	\$11,000

TO:

Purpose	Fund	Code/Department	Account	Amount
Commodities and Materials	0100	0152290	0300	\$11,000

SECTION 2. The sole purpose of this transfer of funds is to provide funds to meet the necessary obligations of the Committee on Workforce Development during said year.

SECTION 3. This ordinance shall be in full force and effect upon its passage and publication.

TRANSFER OF YEAR 2024 FUNDS WITHIN 30<sup>TH</sup> WARD WAGE ALLOWANCE/ALDERMANIC EXPENSE ACCOUNT.

[O2024-0010576]

The Committee on the Budget and Government Operations submitted the following report:

CHICAGO, September 18, 2024.

To the President and Members of the City Council:

Your Committee on the Budget and Government Operations, having had under consideration an ordinance concerning a transfer of funds within 30<sup>th</sup> Ward Wage Allowance/Aldermanic Expense Account for Year 2024 (O2024-0010576), begs leave to report and recommend that Your Honorable Body Pass the proposed ordinance transmitted herewith.

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

(Signed) JASON C. ERVIN,  
*Chair.*

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

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

The following is said ordinance as passed:

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

SECTION 1. The City of Chicago's Comptroller is authorized and directed to make the following transfer of funds for the Year 2024. This transfer will leave sufficient unencumbered appropriations to meet all liabilities that have been or may be incurred during said year payable from such appropriations:

FROM:

Purpose	Fund	Code/Department	Account	Amount	Ward
Aldermanic Expense	0100	015/2005	9008	\$25,000	30

TO:

Purpose	Fund	Code/Department	Account	Amount	Ward
Wage Allowance	0100	015/2005	0017	\$25,000	30

SECTION 2. The sole purpose of this transfer is to provide funds to meet the necessary obligations of 0017 Wage Allowance Account or 9008 Aldermanic Expense Account for Ward 30 during said year.

SECTION 3. This ordinance shall be in full force and effect upon its passage and publication.

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TRANSFER OF YEAR 2024 FUNDS WITHIN 40<sup>TH</sup> WARD WAGE ALLOWANCE/  
ALDERMANIC EXPENSE ACCOUNT.

[O2024-0010317]

The Committee on the Budget and Government Operations submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on the Budget and Government Operations, having had under consideration an ordinance concerning a transfer of funds within 40<sup>th</sup> Ward Wage Allowance/Aldermanic Expense Account for Year 2024 (O2024-0010317), begs leave to report and recommend that Your Honorable Body *Pass* the proposed ordinance transmitted herewith.

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

(Signed) JASON C. ERVIN,  
*Chair.*

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

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

The following is said ordinance as passed:

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

SECTION 1. The City of Chicago's Comptroller is authorized and directed to make the following transfer of funds for the Year 2024. This transfer will leave sufficient unencumbered appropriations to meet all liabilities that have been or may be incurred during said year payable from such appropriations:

FROM:

Purpose	Fund	Code/Department	Account	Amount	Ward
Aldermanic Expense	0100	0152005	9008	\$38,000	40

TO:

Purpose	Fund	Code/Department	Account	Amount	Ward
Wage Allowance	0100	0152005	0017	\$38,000	40

SECTION 2. The sole purpose of this transfer is to provide funds to meet the necessary obligations of 0017 Wage Allowance Account or 9008 Aldermanic Expense Account for Ward 40 during said year.

SECTION 3. This ordinance shall be in full force and effect upon its passage and publication.

**COMMITTEE ON COMMITTEES AND RULES.**

DESIGNATION OF CONFERENCE ROOM 201A AS "THE HONORABLE HAROLD WASHINGTON MEETING ROOM".

[R2023-0005295]

The Committee on Committees and Rules submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on Committees and Rules, which met September 16, 2024, to consider a resolution (R2023-0005295) to rename Conference Room 201A as "The Honorable Harold Washington Meeting Room", begs leave to report and recommend that Your Honorable Body *Adopt* said proposed resolution transmitted herewith.

This recommendation was concurred in by a voice vote of the members of the committee.

Sincerely,

(Signed) MICHELLE A. HARRIS,  
*Chair.*

On motion of Alderperson Harris, the said proposed resolution transmitted with the foregoing committee report was *Adopted* by yeas and nays as follows:

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

The following is said resolution as adopted:

WHEREAS, The Honorable Harold Washington left a lasting legacy in the City of Chicago, Harold Washington, native son of Chicago and the City's first Black mayor; and

WHEREAS, Raised in the Bronzeville neighborhood, Washington was a product of Chicago Public Schools, attending Forestville Elementary and DuSable High School, before being drafted into the U.S. Army in 1942; and

WHEREAS, Upon returning to Chicago, Washington enrolled at Roosevelt College (now Roosevelt University), where he earned his Bachelor of Arts degree in 1949; and

WHEREAS, Washington continued his education at the Northwestern University School of Law, where he was the only Black student in his class; and

WHEREAS, After graduating with his J.D. in 1952, Washington began his long career in public service, following in his recently-deceased father's footsteps as a precinct captain in the 3<sup>rd</sup> Ward and becoming an Assistant City Prosecutor (1954 -- 1958) and an arbitrator for the Illinois Industrial Commission (1960 -- 1964); and

WHEREAS; During the at-large election in 1965, Washington won his first election to the Illinois House of Representatives with the second highest vote total statewide, where he served until 1976 when he was elected to the Illinois Senate, where he served until 1980; and

WHEREAS, Washington's legislative career in Springfield saw numerous accomplishments, including organizing the Illinois Legislative Black Caucus, establishing Martin Luther King, Jr. Day as a state holiday, supporting the Afro-American Patrolman's League, and advocating on behalf of and strengthening the Fair Housing Act and Civil Rights Act of 1964; and

WHEREAS, In 1980, Washington was elected to the U.S. House of Representatives representing the 1<sup>st</sup> Congressional District; during his time in Congress, Washington successfully led the effort to extend the Voting Rights Act and led the opposition to deep cuts to social programs, before being overwhelmingly reelected in 1982 with 97 percent of the vote in the general election; and

WHEREAS, However, Washington's second term in Congress would come to an early end following his historic election as the first Black mayor of the City of Chicago, defeating the incumbent mayor and a future mayor in the process, with a broad and diverse coalition that generated record voter turnout; and

WHEREAS, As mayor, Washington's impacts on the City were profound, reforming political patronage practices and increasing the number of under-represented groups in City hiring and contracting, making City government more transparent, opening the City's budgeting process for public input and participation, establishing a City-wide cultural plan, and establishing several new City departments, including the City's first environmental-affairs department, a women's affairs commission, and the Ethics Commission; and

WHEREAS, Tragically, Mayor Washington's second term after reelection in 1987 was cut short by a fatal heart attack at his desk in City Hall on November 25, 1987; and

WHEREAS, The life and legacy of the People's Mayor is kept alive not only through the public spaces named in his honor, including the main branch of the Chicago Public Library, a City College, a cultural center in his neighborhood of Bronzeville, and a park across the street from his long-time home in Hyde Park, but also through those working to preserve his legacy, including the Mayor Harold Washington Legacy Committee; now, therefore,

*Be It Resolved*, That we, the Mayor and the members of the City Council of the City of Chicago, assembled this 18<sup>th</sup> day of September 2024, do hereby designate Conference Room 201A to be renamed hereby, "The Honorable Harold Washington Meeting Room" and that the Department of Cultural Affairs Special Events commission a portrait of him to be displayed in said room; and

*Be It Further Resolved*, That a suitable copy of this resolution be presented to the Mayor Harold Washington Legacy Committee.

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AMENDMENT OF RESOLUTION IDENTIFYING ASSISTANT SERGEANT-AT-ARMS OF CITY COUNCIL OF CITY OF CHICAGO FOR 2023 -- 2027 TERM.

[R2024-0012346]

The Committee on Committees and Rules submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on Committees and Rules, which met September 16, 2024, to consider a resolution (R2024-0012346) amending the resolution identifying the Sergeant-at-Arms of the City Council of the City of Chicago for the 2023 -- 2027 term, begs leave to report and recommend that Your Honorable Body *Adopt* said propose resolution transmitted herewith.

This recommendation was concurred in by a voice vote of the members of the committee.

Sincerely,

(Signed) MICHELLE A. HARRIS,  
*Chair.*

On motion of Alderperson Harris, the said proposed resolution transmitted with the foregoing committee report was *Adopted* by yeas and nays as follows:

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

The following is said resolution as adopted:

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

The resolution identifying the Sergeant-at-Arms and the Assistant Sergeants-at-Arms of the City Council of the City of Chicago for the 2023 -- 2027 term is hereby amended by deleting the language struck through and by inserting the language underscored, as follows:

Alvin D. Starks	Sergeant-at-Arms
<del>Torian Cox</del> <u>Javas McCall</u>	Assistant Sergeant-at-Arms
Anthony P. Harper	Assistant Sergeant-at-Arms
Leevater Purnell	Assistant Sergeant-at-Arms

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AMENDMENT OF RESOLUTION IDENTIFYING CHAIRMEN AND MEMBERS OF CITY COUNCIL STANDING COMMITTEES FOR 2023 -- 2027 TERM.

[R2024-0012349]

The Committee on Committees and Rules submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on Committees and Rules, which met September 16, 2024, to consider a resolution (R2024-0012349) amending the resolution identifying the Chairmen, Vice-Chairmen, and members of standing committees of the City Council of the City of Chicago for the 2023 -- 2027 term, begs leave to report and recommend that Your Honorable Body *Adopt* said proposed resolution transmitted herewith.

This recommendation was concurred in by a voice vote of the members of the committee.

Sincerely,

(Signed) MICHELLE A. HARRIS,  
*Chair.*

On motion of Alderperson Harris, the said proposed resolution transmitted with the foregoing committee report was *Adopted* by yeas and nays as follows:

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

The following is said resolution as adopted:

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

The resolution identifying the Chairmen, Vice-Chairmen and members of standing committees of the City Council of the City of Chicago for the 2023 -- 2027 term is hereby amended by deleting the language struck through and by inserting the language underscored, as follows:

(Omitted text is not affected by this resolution.)

7. Committee On Environmental Protection And Energy.

Hadden (Chairman), Knudsen (Vice-Chairman), La Spata, Ramirez, Lopez, Tabares, ~~Scott~~, Sigcho-Lopez, Cruz, Rodríguez-Sánchez, Conway, Reilly, Lawson, Clay, Martin, Manaa-Hoppenworth.

(Omitted text is not affected by this resolution.)

10. Committee On Health And Human Relations.

Rodríguez-Sánchez (Chair), Ramirez (Vice-Chair), Robinson, Yancy, Gutiérrez, Lopez, ~~Coleman~~, Sigcho-Lopez, Fuentes, Cruz, Ramirez-Rosa, Lawson, Manaa-Hoppenworth, Hadden.

(Omitted text is not affected by this resolution.)

20. Zoning, Landmarks And Building Standards.

~~Ramirez-Rosa~~ Burnett (Chair), Lawson (Vice-Chair), La Spata, Hopkins, Dowell, Hall, Harris, Beale, ~~Ramirez~~, Moore, Mosely, Sigcho-Lopez, Fuentes, Burnett, Cruz, Conway, Ramirez-Rosa, Villegas, Reilly, Knudsen, Clay.

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*Do Not Pass* -- SUBMISSION OF PUBLIC QUESTION BY REFERENDUM TO CHICAGO VOTERS AT NEXT REGULAR ELECTION REGARDING CHANGE TO COMMISSION FOR PUBLIC SAFETY AND ACCOUNTABILITY MEMBERSHIP FROM 7 MEMBERS TO 11 MEMBERS AND AMENDMENT OF MUNICIPAL CODE CHAPTER 2-80 BY MODIFYING VARIOUS SECTIONS REGARDING TERM LIMITS, QUALIFICATIONS, DUTIES, ELECTIONS FOR AND APPOINTMENTS OF COMMISSIONERS FOR COMMISSION FOR PUBLIC SAFETY AND ACCOUNTABILITY.

[O2024-0009670]

The Committee on Committees and Rules submitted the following report which received a *Do Not Pass* recommendation:

CHICAGO, September 18, 2024.

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

Your Committee on Committees and Rules, which met September 16, 2024, to consider an ordinance (O2024-0009670) regarding submission of public question by referendum to Chicago voters at the next regular election regarding change to Commission for Public Safety and Accountability membership from 7 members to 11 members and amendment of Municipal Code Chapter 2-80 by modifying various sections regarding term limits, qualifications, duties, elections for and appointments of commissioners for Commission for Public Safety and Accountability, begs leave to report and recommend that Your Honorable Body *Do Not Pass* said ordinance transmitted herewith.

This recommendation was concurred in by a vote of 17 yeas to 30 nays.

Sincerely,

(Signed) MICHELLE A. HARRIS,  
*Chair.*

*Re-Referred* -- AMENDMENT OF SECTION 9-12-070 OF MUNICIPAL CODE ESTABLISHING MAXIMUM SPEED LIMIT OF 25 MILES PER HOUR ON STREETS, 15 MILES PER HOUR IN ALLEYS AND ABSOLUTE STATUTORY NONURBAN LIMIT OF 55 MILES PER HOUR.

[O2024-0010990]

The Committee on Committees and Rules submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on Committees and Rules, which met September 16, 2024, begs leave to report and recommend that Your Honorable Body *Re-Refer to the Committee on Pedestrian and Traffic Safety* the ordinance (O2024-0010990) amending Municipal Code Section 9-12-070 to establish maximum speed limit of 25 miles per hour on streets, 15 miles per hour in alleys and absolute statutory nonurban limit of 55 miles per hour.

This recommendation was concurred in by a voice vote of the members of the committee.

Sincerely,

(Signed) MICHELLE A. HARRIS,  
*Chair.*

On motion of Alderperson Harris, the said proposed ordinance transmitted with the foregoing committee report was *Re-Referred to the Committee on Pedestrian and Traffic Safety* by yeas and nays as follows:

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

**COMMITTEE ON CONTRACTING OVERSIGHT AND EQUITY.****APPOINTMENT OF SHARLA ROBERTS AS CHIEF PROCUREMENT OFFICER.**  
[A2024-0012072]

The Committee on Contracting Oversight and Equity submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on Contracting Oversight and Equity, having under consideration a direct introduction by the Honorable Brandon Johnson, Mayor (which was referred on September 10, 2024) of the appointment of Sharla Roberts as Chief Procurement Officer, begs leave to recommend that Your Honorable Body *Approve* the appointment which is transmitted herewith.

This recommendation was concurred in by the members of the Committee on Contracting Oversight and Equity on September 10, 2024.

Respectfully submitted,

(Signed) EMMA M. MITTS,  
*Chair.*

On motion of Alderperson Mitts, the committee's recommendation was *Concurred In* and the said proposed appointment of Sharla Roberts as Chief Procurement Officer was *Approved* by yeas and nays as follows:

*Yeas* -- Alderpersons La Spata, Hopkins, Dowell, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 48.

*Nays* -- None.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

EXECUTION OF PROFESSIONAL SERVICES AGREEMENT WITH URBAN LAND INSTITUTE FOR ADVISORY CONSULTING SERVICES REGARDING LAND REDEVELOPMENT PROJECT AREAS.

[O2024-0010968]

The Committee on Contracting Oversight and Equity submitted the following report:

CHICAGO, September 18, 2024.

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

Your Committee on Contracting Oversight and Equity, having under consideration an ordinance introduced by the Honorable Brandon Johnson, Mayor (which was referred on July 17, 2024) for the execution of professional services agreement with Urban Land Institute for advisory consulting services regarding land redevelopment project areas, begs leave to recommend that Your Honorable Body *Pass* the ordinance which is transmitted herewith.

This recommendation was concurred in by the members of the Committee on Contracting Oversight and Equity on September 10, 2024.

Respectfully submitted,

(Signed) EMMA M. MITTS,  
*Chair.*

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

*Yeas* -- Alderpersons La Spata, Hopkins, Robinson, Yancy, Hall, Mitchell, Harris, Beale, Chico, Lee, Ramirez, Quinn, Gutiérrez, Lopez, Coleman, Moore, Curtis, O'Shea, Mosley, Rodríguez, Tabares, Scott, Sigcho-Lopez, Fuentes, Ervin, Taliaferro, Cruz, Cardona, Waguespack, Rodríguez-Sánchez, Conway, Ramirez-Rosa, Villegas, Mitts, Sposato, Nugent, Vasquez, Napolitano, Reilly, Knudsen, Lawson, Gardiner, Clay, Martin, Manaa-Hoppenworth, Hadden, Silverstein -- 47.

*Nays* -- Alderperson Dowell -- 1.

Alderperson Mitchell moved to reconsider the foregoing vote. The motion was lost.

The following is said ordinance as passed:

WHEREAS, The City of Chicago through its Department of Planning and Development (“DPD”) is responsible for supervising and coordinating the formulation and execution of projects and programs affecting the present and future physical and social environment of the City to the extent they relate to, among other things, land use planning and redevelopment; and

WHEREAS, The City of Chicago Department of Planning and Development (“DPD”) wishes to obtain advisory consulting services relating to land redevelopment projects as identified by DPD; and

WHEREAS, Urban Land Institute (“ULI”) is a not-for-profit organization whose membership consists of a network of people in every profession and sector in real estate development and land use from around the world with the goal of bringing industry leaders and policy makers together to provide objective advice and a customized approach to address a wide variety of land-use issues; and

WHEREAS, DPD wishes to enter into an agreement with ULI for advisory consulting services, which will include the convening of panels to provide the City with objective advice on land redevelopment project areas as identified by DPD from time to time; and

WHEREAS, DPD and Contractor have agreed to the terms of the agreement (“Professional Services Agreement”), which is attached hereto as Exhibit A, pursuant to which ULI would provide such advisory and consulting services to the City upon request of the City; and

WHEREAS, Payments for the Professional Services Agreement will not exceed \$940,000 over its four-year term; and

WHEREAS, DPD seeks authority to enter into such Professional Services Agreement;

Now, Therefore, *It Is Ordained by the City Council of the City* as follows:

1. The recitals are incorporated herein.
2. The Commissioner of DPD (“Commissioner”) is authorized to negotiate and enter into a Professional Services Agreement with ULI. Such Professional Services Agreement shall be in substantially the form attached hereto as Exhibit A, with such other terms as determined by the Commissioner to be necessary and reasonable. The Commissioner is authorized to enter into such other ancillary documents as are necessary in connection with the Professional Services Agreement.
3. This ordinance is effective upon its passage and approval.

Exhibit “A” referred to in this ordinance reads as follows:

*Exhibit "A".*  
(To Ordinance)

*Professional Services Agreement Between City Of Chicago,  
Department Of Planning And Development  
And Urban Land Institute.*

**List of Exhibits**

- EXHIBIT 1 SCOPE OF SERVICES AND TIME LIMITS FOR PERFORMANCE
- EXHIBIT 1A BRIEFING BOOK GUIDELINES
- EXHIBIT 2 SCHEDULE OF COMPENSATION
- EXHIBIT 3 [INTENTIONALLY OMITTED]
- EXHIBIT 4 ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT
- EXHIBIT 5 INSURANCE REQUIREMENTS AND EVIDENCE OF INSURANCE
- EXHIBIT 6 [INTENTIONALLY OMITTED]
- EXHIBIT 7 LIST OF KEY PERSONNEL
- EXHIBIT 8 SEXUAL HARASSMENT POLICY AFFIDAVIT (SECTION 2-92-612)
- EXHIBIT 9 [INTENTIONALLY OMITTED]
- EXHIBIT 10 CITY'S DATA PROTECTION REQUIREMENTS
- EXHIBIT 11 SUPPLEMENTAL CONTRACT TERMS RELATING TO EXECUTIVE ORDER 2021-2

**AGREEMENT**

This Agreement is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ ("Effective Date") by and between the Urban Land Institute, a not for profit corporation, acting through ULI Chicago District Council ("**Contractor**"), and the City of Chicago, a municipal corporation and home rule unit of local government existing under the Constitution of the State of Illinois, acting through its Department of Planning and Development ("**City**"), at Chicago, Illinois. The City and Contractor agree as follows:

**TERMS AND CONDITIONS**

**ARTICLE 1. DEFINITIONS**

**1.1 Definitions**

The following words and phrases have the following meanings for purposes of this Agreement:

"Additional Services" means those services which are within the general scope of Services of this Agreement, but beyond the description of services required under Section 2.1, and all services reasonably necessary to complete the Additional Services to the standards of performance required by this Agreement. Any Additional Services requested by the Department require the approval of the City in a written amendment under Section 9.3 of this Agreement before Contractor is obligated to perform those Additional Services and before the City becomes obligated to pay for those Additional Services.

**"Advisory Services Panel (ASP)"** Generally means a 5-day process where ULI convenes a Volunteer Panel of subject-matter experts from its diverse national membership (including developers, planners, financiers, market analysts, economists, architects, designers, and public officials) for a holistic, best practices approach to solving complex land-use challenges. As part of the ASP, ULI Panelists typically review briefing materials, tour the Study Area, interview local stakeholders, and work collaboratively to develop recommendations that are unbiased and implementable.

**"Agreement"** means this Professional Services Agreement, including all exhibits attached to it and incorporated in it by reference, and all amendments, modifications or revisions made in accordance with its terms.

**"Chief Procurement Officer"** means the Chief Procurement Officer of the City and any representative duly authorized in writing to act on his behalf.

**"Commissioner"** means the Commissioner of the Department of Planning and Development, and any representative authorized in writing to act on the Commissioner's behalf.

**"Department"** or **"DPD"** means the City Department of Planning and Development.

**"Interviewees"** means, collectively, the key community leaders, businesses, stakeholders, and institutions with the knowledge, history, and insight into the Study Area that the Panels will interview.

**"Panels"** means, collectively, the Advisory Service Panels and Technical Assistance Panels to be convened by Contractor in the performance of this Agreement. The Panels consist of subject-matter experts from Contractor's multi-disciplinary membership (including developers, planners, financiers, market analysts, economists, architects, designers, and public officials) and are assembled to provide nonpartisan and objective advice to tackle an identified land use or real estate development challenge. The Contractor shall be responsible for the Panel members during the duration of the Panels.

**"Panelists"** or **"Volunteers"** means, collectively the individuals that comprise the Advisory Service Panels and Technical Assistance Panels convened by Contractor in the performance of this Agreement. The Contractor shall be responsible for the Panelists and Volunteers.

**"Project"** means the convening of a Panel for the review of an area pursuant to a Task Order.

"**Services**" means, collectively, the services, duties and responsibilities described in Article 2 and Exhibit 1 of this Agreement and any and all work necessary to complete them or carry them out fully and to the standard of performance required in this Agreement.

"**Study Area**" means the bounded area or site and relevant context determined by the City as the focus are for Contractor's Panel discussions, research, and deliverables.

"**Subcontractor**" means any person or entity with whom Contractor contracts to provide any part of the Services, including subcontractors and subconsultants of any tier, suppliers and materials providers, whether or not in privity with Contractor.

"**Technical Assistance Panel (TAP)**" means a 2-day Panel of local subject-matter experts from it's diverse local membership (including developers, planners, financiers, market analysts, economists, architects, designers, and public officials) for a holistic, best practices approach to solving complex land-use challenges. As part of the TAP, ULI Panelists typically review briefing materials, tour the Study Area, interview local stakeholders, and work collaboratively to develop recommendations that are unbiased, implementable, and advance the community's vision for the Study Area.

## 1.2 Interpretation

(a) The term "**include**" (in all its forms) means "include, without limitation" unless the context clearly states otherwise.

(b) All references in this Agreement to Articles, Sections or Exhibits, unless otherwise expressed or indicated are to the Articles, Sections or Exhibits of this Agreement.

(c) Words importing persons include firms, associations, partnerships, trusts, corporations and other legal entities, including public bodies, as well as natural persons.

(d) Any headings preceding the text of the Articles and Sections of this Agreement, and any table of contents or marginal notes appended to it, are solely for convenience or reference and do not constitute a part of this Agreement, nor do they affect the meaning, construction or effect of this Agreement.

(e) Words importing the singular include the plural and vice versa. Words of the masculine gender include the correlative words of the feminine and neuter genders.

(f) All references to a number of days mean calendar days, unless indicated otherwise.

### 1.3 Order of Precedence

The order of precedence of the component Agreement parts will be as follows:

- If funded by the Federal Government, terms required by the Federal Government, whether set out in this document (Exhibit 9), or otherwise.
- Exhibit 1 Scope of Work and Time Limits For Performance
- All other parts of this Agreement.

Provided, however, in the event of an inconsistency between terms set out among different component parts of the Agreement, or terms set out within an Agreement part, notwithstanding the order of precedence noted above, the term that is most favorable to the City controls, unless expressly stated otherwise.

### 1.4 Incorporation of Exhibits

The following attached Exhibits are made a part of this Agreement:

Exhibit 1	Scope of Services and Time Limits for Performance
Exhibit 1A	Briefing Book Guidelines
Exhibit 2	Schedule of Compensation
Exhibit 3	[Intentionally Omitted]
Exhibit 4	Economic Disclosure Statement and Affidavit
Exhibit 5	Insurance Requirements and Evidence of Insurance
Exhibit 6	[Intentionally Omitted]
Exhibit 7	List of Key Personnel
Exhibit 8	Sexual Harassment Policy Affidavit (Section 2-92-612)
Exhibit 9	[Intentionally Omitted]
Exhibit 10	City's Data Protection Requirements

## ARTICLE 2. DUTIES AND RESPONSIBILITIES OF CONTRACTOR

### 2.1 Scope of Services

This description of Services is intended to be general in nature and is neither a complete description of Contractor's Services nor a limitation on the Services that Contractor is to provide under this Agreement. Contractor must provide the Services in accordance with the standards of performance set forth in Section 2.3. The Services that Contractor must provide are described in Exhibit 1, Scope of Services and Time Limits for Performance.

## 2.2 Deliverables

In carrying out its Services, Contractor must prepare or provide to the City various Deliverables. "**Deliverables**" include work product, such as written reviews, recommendations, reports and analyses, produced by Contractor for the City.

The City may reject Deliverables that do not include relevant information or data, or do not include all documents or other materials specified in this Agreement or reasonably necessary for the purpose for which the City made this Agreement or for which the City intends to use the Deliverables. If the City determines that Contractor has failed to comply with the foregoing standards, it has 30 days from the discovery to notify Contractor of its failure. If Contractor does not correct the failure, if it is possible to do so, within 30 days after receipt of notice from the City specifying the failure, then the City, by written notice, may treat the failure as a default of this Agreement under Section 8.1.

Partial or incomplete Deliverables may be accepted for review only when required for a specific and well-defined purpose for the benefit of the City and when consented to in advance by the City. Such Deliverables will not be considered as satisfying the requirements of this Agreement and partial or incomplete Deliverables in no way relieve Contractor of its obligations under this Agreement.

## 2.3 Standard of Performance

Contractor must perform all Services required of it under this Agreement with that degree of skill, care and diligence normally shown by a contractor performing services of a scope and purpose and magnitude comparable with the nature of the Services to be provided under this Agreement. Contractor acknowledges that it is entrusted with or has access to valuable and confidential information and records of the City and with respect to that information, Contractor agrees to be held to the standard of care of a fiduciary. **Any review, approval, acceptance of Services or Deliverables or payment for any of the Services by the City does not relieve Contractor of its responsibility for the professional skill and care and technical accuracy of its Services and Deliverables. This provision in no way limits the City's rights against Contractor under this Agreement, at law or in equity.**

Contractor must be appropriately licensed to perform the Services, if required by law, and must ensure that all Services that require the exercise of professional skills or judgment are accomplished by professionals qualified and competent in the applicable discipline and appropriately licensed as may be required by law. Contractor must provide copies of any such licenses. Contractor remains responsible for the professional and technical accuracy of all Services or Deliverables furnished, whether by Contractor or its Subcontractors or others on its behalf, including Panelists. All Deliverables must be prepared in a form and content satisfactory to the Department and delivered in a timely manner consistent with the requirements of this Agreement.

If Contractor fails to comply with the foregoing standards, Contractor must, at the City's option, perform again, at its own expense, all Services required to be re-performed as a direct or indirect result of that failure, unless the reason is failure to have and maintain required licensure. See subsection 8.1 (b)(ii) regarding failure to comply with licensure requirements.

## **2.4 Personnel**

### **(a) Adequate Staffing**

Contractor must, upon receiving a fully executed copy of this Agreement, assign and maintain during the term of this Agreement and any extension of it an adequate staff of competent personnel that is fully equipped, licensed as appropriate, available as needed, qualified and assigned exclusively to perform the Services. Contractor must include among its staff the Key Personnel and positions as identified below. The level of staffing may be revised from time to time by notice in writing from Contractor to the City and with prior written consent of the City.

### **(b) Key Personnel**

Contractor must not reassign or replace Key Personnel without the written consent of the City. "**Key Personnel**" means those job titles and the persons assigned to those positions in accordance with the provisions of this Section 2.4(b). The Department may at any time in writing notify Contractor that the City will no longer accept performance of Services under this Agreement by one or more Key Personnel listed. Upon that notice Contractor must immediately suspend the key person or persons from performing Services under this Agreement and must replace him or them in accordance with the terms of this Agreement. Key Personnel, if any, are identified in Exhibit 7.

### **(c) Salaries and Wages**

Contractor and Subcontractors must pay all salaries and wages due all employees performing Services under this Agreement unconditionally and at least once a month without deduction or rebate on any account, except only for those payroll deductions that are mandatory by law or are permitted under applicable law and regulations. If in the performance of this Agreement Contractor underpays any such salaries or wages, the Comptroller for the City may withhold, out of payments due to Contractor, an amount sufficient to pay to employees underpaid the difference between the salaries or wages required to be paid under this Agreement and the salaries or wages actually paid these employees for the total number of hours worked. The amounts withheld may be disbursed by the Comptroller for and on account of Contractor to the respective employees to whom they are due. The parties acknowledge that this Section 2.4(c) is solely for the benefit of the City and that it does not grant any third party beneficiary rights.

## 2.5 Minority and Women's Business Enterprises Commitment

It is the policy of the City of Chicago that local business certified as Minority Business Enterprises (MBE) and Women Enterprises (WBE) in accordance with Section 2-92-450 of the Municipal Code of Chicago and Regulations Governing Certification of Minority and Women-owned Businesses shall have the maximum opportunity to participate fully in the performance of all City contracts.

The City has determined that the nature of the Services to be provided under this Agreement are such that neither direct nor indirect subcontracting opportunities will be practicable or cost effective. Therefore, there will be no stated goals for MBE/WBE participation resulting from this Agreement. This determination is being made pursuant to Section 2-92-450 of the Municipal Code of Chicago.

## 2.6 Insurance

Contractor must provide and maintain at Contractor's own expense, during the term of this Agreement and any time period following expiration if Contractor is required to return and perform any of the Services or Additional Services under this Agreement, the insurance coverages and requirements specified in Exhibit 5 of this Agreement, insuring all operations related to this Agreement.

## 2.7 Indemnification

(a) Contractor must defend, indemnify, and hold harmless the City, its officers, representatives, elected and appointed officials, agents and employees from and against any and all Losses, including those related to:

- (i) injury, death or damage of or to any person or property;
- (ii) any infringement or violation of any property right (including any patent, trademark or copyright);
- (iii) Contractor's failure to perform or cause to be performed Contractor's promises and obligations as and when required under this Agreement, including Contractor's failure to perform its obligations to any Subcontractor;
- (iv) the City's exercise of its rights and remedies under Section 8.2 of this Agreement; and
- (v) injuries to or death of any employee of Contractor or any Subcontractor under any workers compensation statute.

(b) **"Losses"** means, individually and collectively, liabilities of every kind, including losses, damages and reasonable costs, payments and expenses (such as, but not limited to, court costs and reasonable attorneys' fees and disbursements), claims, demands, actions, suits, proceedings, judgments or settlements, any or all of which in any way arise out of or relate to Contractor's breach of this Agreement or to Contractor's negligent or otherwise wrongful acts or omissions or those of its officers, agents, employees, consultants, Subcontractors, Panelists or licensees.

(c) At the City Corporation Counsel's option, Contractor must defend all suits brought upon all such Losses and must pay all costs and expenses incidental to them, but the City has the right, at its option, to participate, at its own cost, in the defense of any suit, without relieving Contractor of any of its obligations under this Agreement. Any settlement must be made only with the prior written consent of the City Corporation Counsel, if the settlement requires any action on the part of the City.

(d) To the extent permissible by law, Contractor waives any limits to the amount of its obligations to defend, indemnify, hold harmless, or contribute to any sums due under any Losses, including any claim by any employee of Contractor that may be subject to the Workers Compensation Act, 820 ILCS 305/1 *et seq.* or any other related law or judicial decision (such as, *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2d 155 (1991)). The City, however, does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, the Illinois Pension Code, any other statute or judicial decision.

(e) The indemnities in this section survive expiration or termination of this Agreement for matters occurring or arising during the term of this Agreement or as the result of or during Contractor's performance of Services beyond the term. Contractor acknowledges that the requirements set forth in this section to defend, indemnify, and hold harmless the City are apart from and not limited by the Contractor's duties under this Agreement, including the insurance requirements in Exhibit 5 of this Agreement.

## **2.8 Ownership of Documents**

All Deliverables, data, findings or information in any form prepared, assembled or encountered by or provided to Contractor under this Agreement are property of the City, including, as further described in Section 2.9 below, all copyrights inherent in them or their preparation. During performance of its Services, Contractor is responsible for any loss or damage to the Deliverables, data, findings or information while in Contractor's or any Subcontractor's or Panelist's possession. Any such lost or damaged Deliverables, data, findings or information must be restored at the expense of Contractor. If not restorable, Contractor must bear the cost of replacement and of any loss suffered by the City on account of the destruction, as provided in Section 2.7.

## 2.9 Copyright Ownership

Contractor and the City intend that, to the extent permitted by law, the Deliverables to be produced by Contractor at the City's instance and expense under this Agreement are conclusively deemed "**works made for hire**" within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. §101 *et seq.*, and that the City will be the sole copyright owner of the Deliverables and of all aspects, elements and components of them in which copyright can subsist, and of all rights to apply for copyright registration or prosecute any claim of infringement. Notwithstanding the foregoing, Contractor shall have a perpetual, royalty-free license to use the Deliverables in furtherance of its tax-exempt mission.

To the extent that any Deliverable does not qualify as a "work made for hire," Contractor hereby irrevocably grants, conveys, bargains, sells, assigns, transfers and delivers to the City, its successors and assigns, all right, title and interest in and to the copyrights and all U.S. and foreign copyright registrations, copyright applications and copyright renewals for them, and other intangible, intellectual property embodied in or pertaining to the Deliverables prepared for the City under this Agreement, and all goodwill relating to them, free and clear of any liens, claims or other encumbrances, to the fullest extent permitted by law. Contractor will, and will cause all of its Subcontractors, employees, agents and other persons within its control to, execute all documents and perform all acts that the City may reasonably request in order to assist the City in perfecting its rights in and to the copyrights relating to the Deliverables, at the sole expense of the City. Contractor warrants to the City, its successors and assigns, that on the date of transfer Contractor is the lawful owner of good and marketable title in and to the copyrights for the Deliverables and has the legal rights to fully assign them. Contractor further warrants that it has not assigned and will not assign any copyrights and that it has not granted and will not grant any licenses, exclusive or nonexclusive, to any other party, and that it is not a party to any other agreements or subject to any other restrictions with respect to the Deliverables. Contractor warrants that the Deliverables are complete, entire and comprehensive, and that the Deliverables constitute a work of original authorship.

## 2.10 Records and Audits

### (a) Records

(i) Contractor must deliver or cause to be delivered to the City all documents, including all Deliverables prepared for the City under the terms of this Agreement, promptly in accordance with the time limits prescribed in this Agreement, and if no time limit is specified, then upon reasonable demand for them or upon termination or completion of the Services under this Agreement. If Contractor fails to make such delivery upon demand, then Contractor must pay to the City any damages the City may sustain by reason of Contractor's failure.

(ii) Contractor must maintain any such records including Deliverables not delivered to the City or demanded by the City for a period that is the longer of (A) 5 years

after the final payment made in connection with this Agreement (or, 6 years after the final payment made in connection with this Agreement, with respect to any records that are required to be maintained pursuant to the Contractor's obligations under Exhibit 6 and the regulations implementing the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH), which was part of the American Recovery and Reinvestment Act of 2009, specifically 45 C.F.R. § 164.530(j)), or (B) as directed by the Local Records Act (50 ILCS 205) and relevant records retention schedule. Contractor must not dispose of such records following the expiration of the relevant period without notification of and written approval from the City in accordance with Article 10.

In addition to the records to be stored by Contractor, all records that are possessed by Contractor in its service to the City to perform a governmental function are public records of the City pursuant to the Illinois Freedom of Information Act ("FOIA"), unless the records are exempt under the Act. FOIA requires that the City produce records in a very short period of time. If the Contractor receives a request from the City to produce records, the Contractor shall do so within 72 hours of the notice.

**(b) Audits**

(i) Contractor and any of Contractor's Subcontractors must furnish the Department with all information that may be requested pertaining to the performance and cost of the Services. Contractor must maintain records showing actual time devoted and costs incurred. Contractor must keep books, documents, papers, records and accounts in connection with the Services open to audit, inspection, copying, abstracting and transcription and must make these records available to the City and any other interested governmental agency, at reasonable times during the performance of its Services.

(ii) To the extent that Contractor conducts any business operations separate and apart from the Services required under this Agreement using, for example, personnel, equipment, supplies or facilities also used in connection with this Agreement, then Contractor must maintain and make similarly available to the City detailed records supporting Contractor's allocation to this Agreement of the costs and expenses attributable to any such shared usages.

(iii) Contractor must maintain its books, records, documents and other evidence and adopt accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred for or in connection with the performance of this Agreement. This system of accounting must be in accordance with generally accepted accounting principles and practices, consistently applied throughout.

(iv) No provision in this Agreement granting the City a right of access to records and documents is intended to impair, limit or affect any right of access to such records and documents which the City would have had in the absence of such provisions.

(v) The City may in its sole discretion audit the records of Contractor or its Subcontractors, or both, at any time during the term of this Agreement or within six years after the Agreement ends, in connection with the goods, work, or Services provided under this Agreement. Each calendar year or partial calendar year is considered an "audited

period.” If, as a result of any such audit, it is determined that Contractor or any of its Subcontractors has overcharged the City in the audited period, the City will notify Contractor. Contractor must then promptly reimburse the City for any amounts the City has paid Contractor due to the overcharges and also some or all of the cost of the audit, as follows:

A. If the audit has revealed overcharges to the City representing less than 5% of the total value, based on the Agreement prices, of the goods, work, or Services provided in the audited period, then the Contractor must reimburse the City for 50% of the cost of the audit and 50% of the cost of each subsequent audit that the City conducts;

B. If, however, the audit has revealed overcharges to the City representing 5% or more of the total value, based on the Agreement prices, of the goods, work, or Services provided in the audited period, then Contractor must reimburse the City for the full cost of the audit and of each subsequent audit.

C. If the audit reveals that the Contractor was not paid the full amount required under the Agreement, the City will pay to the Contractor the sum equal to the amount of the deficiency.

Failure of Contractor to reimburse the City in accordance with subsection A or B above is an event of default under Section 8.1 of this Agreement, and Contractor will be liable for all of the City’s costs of collection, including any court costs and attorneys’ fees.

## **2.11 Confidentiality**

(a) All Deliverables and reports, data, findings or information in any form prepared, assembled or encountered by or provided by Contractor under this Agreement are property of the City and are confidential, except as specifically authorized in this Agreement or as may be required by law. Contractor must not allow the Deliverables to be made available to any other individual or organization without the prior written consent of the City. Further, all documents and other information provided to Contractor by the City are confidential and must not be made available to any other individual or organization without the prior written consent of the City. Contractor must implement such measures as may be necessary to ensure that its staff, its Panelists and its Subcontractors are bound by the confidentiality provisions in this Agreement.

(b) Contractor must not issue any publicity news releases or grant press interviews, and except as may be required by law during or after the performance of this Agreement, disseminate any information regarding its Services or the Project to which the Services pertain without the prior written consent of the Commissioner.

(c) If Contractor is presented with a request for documents by any administrative agency or with a subpoena duces tecum regarding any records, data or documents which may be in Contractor's possession by reason of this Agreement, Contractor must immediately give notice to the Commissioner and the Corporation Counsel for the City with the understanding that the City will have the opportunity to contest such process by any means available to it before the records, data or documents are submitted to a court or other third party. Contractor, however, is not

obligated to withhold the delivery beyond the time ordered by a court or administrative agency, unless the subpoena or request is quashed or the time to produce is otherwise extended.

(d) HIPAA, HITECH, and AIDS Confidentiality Act. To the extent not defined herein the capitalized terms below and in Exhibit 6 will have the same meaning as set forth in the Health Insurance Portability and Accountability Act, the Health Information Technology for Economic and Clinical Health Act, and their implementing regulations (collectively "HIPAA"). See 45 CFR parts 160, 162 and 164. Contractor and all its Subcontractors must comply with HIPAA and all rules and regulations applicable to it or them. Contractor must also comply with the Illinois AIDS Confidentiality Act (410 ILCS 305/1 through 16) and the rules and regulations of the Illinois Department of Public Health promulgated under it. If Contractor fails to comply with the applicable provisions under HIPAA or the Illinois AIDS Confidentiality Act, such failure will constitute an event of default under this Agreement for which no opportunity for cure will be provided.

Additionally, if Contractor is a Business Associate it must comply with all requirements of the HIPAA applicable to Business Associates including the provisions contained in Exhibit 6.

## **2.12 Assignments and Subcontracts**

(a) Contractor must not assign, delegate or otherwise transfer all or any part of its rights or obligations under this Agreement: (i) unless otherwise provided for elsewhere in this Agreement; or (ii) without the express written consent of the Department. The absence of such a provision or written consent voids the attempted assignment, delegation or transfer and is of no effect as to the Services or this Agreement. No approvals given by the Department, including approvals for the use of any Subcontractors, operate to relieve Contractor of any of its obligations or liabilities under this Agreement.

(b) All Subcontractors are subject to the prior approval of the Department. Approval for the use of any Subcontractor in performance of the Services is conditioned upon performance by the Subcontractor in accordance with the terms and conditions of this Agreement. If any Subcontractor fails to perform the Services in accordance with the terms and conditions of this Agreement to the satisfaction of the Department, the City has the absolute right upon written notification to immediately rescind approval and to require the performance of this Agreement by Contractor personally or through any other City-approved Subcontractor. Any approval for the use of Subcontractors in the performance of the Services under this Agreement under no circumstances operates to relieve Contractor of any of its obligations or liabilities under this Agreement.

(c) Contractor, upon entering into any agreement with a Subcontractor, must furnish upon request of the Department a copy of its agreement. Contractor must ensure that all subcontracts contain provisions that require the Services be performed in strict accordance with

the requirements of this Agreement, provide that the Subcontractors are subject to all the terms of this Agreement and are subject to the approval of the Department. If the agreements do not prejudice any of the City's rights under this Agreement, such agreements may contain different provisions than are provided in this Agreement with respect to extensions of schedule, time of completion, payments, guarantees and matters not affecting the quality of the Services.

(d) Contractor must not transfer or assign any funds or claims due or to become due under this Agreement without the prior written approval of the Department. The attempted transfer or assignment of any funds, either in whole or in part, or any interest in them, which are due or to become due to Contractor under this Agreement, without such prior written approval, has no effect upon the City.

(e)

(f) The City reserves the right to assign or otherwise transfer all or any part of its interests under this Agreement to any successor.

### **2.13 Task Orders**

For each Project the City desires the Contractor to complete, the City and Contractor will execute a Task Order detailing (1) maximum compensation consistent with this Agreement's Schedule of Compensation, (2) Deliverables, (3) Performance Schedule, (4) performance milestones and payment schedule, and (5) detailed requirements for the Services, among other items. In the event of an inconsistency between the terms set out in the Task Orders and the terms set out in the Agreement, the terms of Articles 1 to 11 of the Agreement control, and may not be modified except by amendment according to section 9.3 of the Agreement.

The Contractor must not honor any verbal requests for Services or perform or bill for any Services without receipt of a written Task Order and Notice to Proceed issued by the Department. Any work performed by the Contractor without a written Task Order and Notice to Proceed is done at the Contractor's risk. Consequently, in the event a written Task Order and Notice to Proceed is not provided by the City, the Contractor releases the City from any liability whatsoever to pay for work performed without a Task Order and Notice to Proceed.

All Services must be authorized by a written Task Order. Contractor acknowledges and agrees that the City is under no obligation to issue any Task Orders.

As needed, upon the written approval of the Commissioner, the Department will issue a Task Order Request ("TOR") specifically referencing this Contract, identifying the Project, and setting forth the Services to be performed pursuant to a Task Order and a desired completion date. Contractor must respond by submitting a Task Order Proposal which must include: a cover letter, understanding and approach, project schedule, budget, fee, detailed cost breakdown in such detail

as required for the specific task, a list of key personnel, and any other required information specified in the TOR, all of which must conform to the terms of the TOR and the terms and Conditions of this Agreement. Contractor must not respond to any TOR not approved in writing by the Commissioner. Costs associated with the preparation of Task Order proposals are not compensable under this Agreement and the City is not liable for additional costs.

Following Contractor's submission of the Task Order Proposal, the Commissioner will review the proposal and may elect to approve it, reject it, or use it as a basis for further negotiations with the Contractor regarding the scope of the Project and the Project completion date. If the City and the Contractor negotiate the scope of the Project and the Project completion date, the Contractor must submit a revised Task Order Proposal (based upon such negotiations) to the City for approval.

All Task Orders are subject to the approval of the Commissioner and no Task Order will become binding upon the City until it is approved, in writing, by the Commissioner. Absent approval of a Task Order by the Commissioner, the City will not be obligated to pay or have any liability, under any theory of recovery (whether under the Agreement, at law or in equity), to the Contractor for any Services provided by the Contractor pursuant to a Task Order, or otherwise.

Some Task Order services are subject to approval by a state or federal agency or other third party, therefore Contractor must not commence its performance of the Services until it receives a Notice to Proceed.

If the Services to be performed under a Task Order are to be funded from a fund other than the fund identified by the fund number set forth in this Agreement, such change in funding must be approved by the Commissioner and the Comptroller prior to the issuance of any Task Order funded through such fund, and the applicable fund number must be included in the Task Order form provided to Contractor. Additionally, a change in fund number may require an amendment to give effect to the new terms that are associated with the fund number.

After receiving a Task Order, Contractor will commence its Services immediately upon receipt of an executed Notice to Proceed issued by the Commissioner or his authorized designee.

### **ARTICLE 3. DURATION OF AGREEMENT**

#### **3.1 Term of Performance**

This Agreement takes effect as of the Effective Date and continues for a period of four (4) years, except as terminated in accordance with its terms. The Contractor shall perform its Services in accordance with the Schedule included in the Scope of Services, Exhibit I.

### 3.2 Timeliness of Performance

(a) Contractor must provide the Services and Deliverables within the time limits required under any request for services pursuant to the provisions of Section 2.1 and Exhibit 1. **Further, Contractor acknowledges that TIME IS OF THE ESSENCE and that the failure of Contractor to comply with the required time limits may result in economic or other losses to the City.**

(b) Neither Contractor nor Contractor's agents, employees, Panelists or Subcontractors are entitled to any damages from the City, nor is any party entitled to be reimbursed by the City, for damages, charges or other losses or expenses incurred by Contractor by reason of delays or hindrances in the performance of the Services, whether or not caused by the City.

### 3.3 Agreement Extension Option

The Commissioner may at any time before this Agreement expires elect to extend this Agreement for up to two (2) years, under the same terms and conditions as this original Agreement, by notice in writing to Contractor.

## ARTICLE 4. COMPENSATION

### 4.1 Basis of Payment

The City will pay Contractor according to the Schedule of Compensation in the attached Exhibit 2 for the completion of the Services in accordance with this Agreement, including the standard of performance in Section 2.3. Each contracted service shall only be performed in portions of each Study Area that are located within a redevelopment project area from which funding has been authorized by City Council.

### 4.2 Method of Payment

Contractor must submit monthly invoices (in triplicate) to the City for labor and other direct costs as billed, as outlined in the Schedule of Compensation in Exhibit 2. The invoices must be in such detail as the City requests. The City will process payment within 60 days after receipt of invoices and all supporting documentation necessary for the City to verify the Services provided under this Agreement.

### 4.3 Funding

The source of funds for payments under this Agreement are Fund numbers

024.0544101.0140.220140 and 024.0544102.0140.220140 . Payments under this Agreement must not exceed \$ 940,000 without a written amendment in accordance with Section 9.3. Funding for this Agreement is subject to the availability of funds and their appropriation by the City Council of the City.

#### **4.4 Non-Appropriation**

If no funds or insufficient funds are appropriated and budgeted in any fiscal period of the City for payments to be made under this Agreement, then the City will notify Contractor in writing of that occurrence, and this Agreement will terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under this Agreement are exhausted. Payments for Services completed to the date of notification will be made to Contractor except that no payments will be made or due to Contractor under this Agreement beyond those amounts appropriated and budgeted by the City to fund payments under this Agreement.

### **ARTICLE 5. DISPUTES**

#### **5.1 Procedure for Bringing Disputes to the Department**

The Contractor and using Department must attempt to resolve all disputes arising under this Contract in good faith, taking such measures as, but not limited to investigating the facts of the dispute and meeting to discuss the issue(s).

In order to bring a dispute to the Commissioner of a Department, Contractor must provide a general statement of the basis for its claim, the facts underlying the claim, reference to the applicable Contract provisions, and all documentation that describes, relates to and supports the claim. By submitting a Claim, the Contractor certifies that:

- A. The Claim is made in good faith;
- B. The Claim's supporting data are accurate and complete to the best of the person's knowledge and belief;
- C. The amount of the Claim accurately reflects the amount that the claimant believes is due from the City; and
- D. The certifying person is duly authorized by the claimant to certify the Claim.

The Commissioner shall have 30 days from receipt of the Claim to render a written "final decision of the Commissioner" stating the Commissioner's factual and contractual basis for the decision. However, the Commissioner may take an additional period, not to exceed 10 days, to render the final decision. If the Commissioner does not render a "final decision of the Commissioner" within the prescribed time frame, then the Claim should be deemed denied by the Commissioner.

## **ARTICLE 6. COMPLIANCE WITH ALL LAWS**

### **6.1 Compliance with All Laws Generally**

(a) Contractor must observe and comply with all applicable federal, state, county and municipal laws, statutes, ordinances and executive orders, in effect now or later and whether or not they appear in this Agreement, including those set forth in this Article 6, and Contractor must pay all taxes and obtain all licenses, certificates and other authorizations required by them. Contractor must require all Subcontractors to do so, also. Further, Contractor must execute an Economic Disclosure Statement and Affidavit ("**EDS**") in the form attached to this Agreement as Exhibit 4. Notwithstanding acceptance by the City of the EDS, Contractor's failure in the EDS to include all information required under the Municipal Code renders this Agreement voidable at the option of the City. Contractor must promptly update its EDS(s) on file with the City whenever any information or response provided in the EDS(s) is no longer complete and accurate. Contractor agrees that Contractor's failure to maintain current throughout the term and any extensions of the term, the disclosures and information pertaining to ineligibility to do business with the City under Chapter 1-23 of the Municipal Code, as such is required under Sec. 2-154-020, shall constitute an event of default.

(b) Notwithstanding anything in this Agreement to the contrary, references to a statute or law are considered to be a reference to (i) the statute or law as it may be amended from time to time; (ii) all regulations and rules pertaining to or promulgated pursuant to the statute or law; and (iii) all future statutes, laws, regulations, rules and executive orders pertaining to the same or similar subject matter.

### **6.2 Nondiscrimination**

#### **(a) Contractor**

Contractor must comply with applicable federal, state, and local laws and related regulations prohibiting discrimination against individuals and groups. If this Agreement is federally funded in whole or in part, additional provisions related to nondiscrimination may be set forth in Exhibit 8.

#### **(i) Federal Requirements**

Contractor must not engage in unlawful employment practices, such as (1) failing or refusing to hire or discharging any individual, or otherwise discriminating against any individual with respect to compensation or the terms, conditions, or privileges of the individual's employment, because of the individual's race, color, religion, sex, age, handicap/disability or national origin; or (2) limiting, segregating or classifying Contractor's employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect

the individual's status as an employee, because of the individual's race, color, religion, sex, age, handicap/disability or national origin.

Contractor must comply with, and the procedures Contractor utilizes and the Services Contractor provides under this Agreement must comply with, the Civil Rights Act of 1964, 42 U.S.C. sec. 2000e *et seq.* (1981), as amended and the Civil Rights Act of 1991, P.L. 102-166. Attention is called to: Exec. Order No. 11246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. 2000e note, as amended by Exec. Order No. 11375, 32 Fed. Reg. 14,303 (1967) and by Exec. Order No. 12086, 43 Fed. Reg. 46,501 (1978); Age Discrimination Act, 42 U.S.C. §6101-6106 (1981); Age Discrimination in Employment Act, 29 U.S.C. §621-34; Rehabilitation Act of 1973, 29 U.S.C. §793-794 (1981); Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.*; 41 C.F.R. Part 60 *et seq.* (1990); and all other applicable federal statutes, regulations and other laws.

(ii) **State Requirements**

Contractor must comply with, and the procedures Contractor utilizes and the Services Contractor provides under this Agreement must comply with, the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* (1990), as amended and any rules and regulations promulgated in accordance with it, including the Equal Employment Opportunity Clause, 44 Ill. Admin. Code §750 Appendix A. Furthermore, Contractor must comply with the Public Works Employment Discrimination Act, 775 ILCS 10/0.01 *et seq.* (1990), as amended, and all other applicable state statutes, regulations and other laws.

(iii) **City Requirements**

Contractor must comply with, and the procedures Contractor utilizes and the Services Contractor provides under this Agreement must comply with, the Chicago Human Rights Ordinance, Ch. 6-10, Section 6-10-010 *et seq.* of the Municipal Code of Chicago, as amended, and all other applicable City ordinances and rules.

(b) **Subcontractors**

Contractor must incorporate all of this Section 6.2 by reference in all agreements entered into with any suppliers of materials, furnisher of services, Subcontractors of any tier, and labor organizations that furnish skilled, unskilled and craft union skilled labor, or that may provide any such materials, labor or services in connection with this Agreement. Further, Contractor must furnish and must cause each of its Subcontractor(s) to furnish such reports and information as requested by the federal, state, and local agencies charged with enforcing such laws and regulations, including the Chicago Commission on Human Relations.

### **6.3 Inspector General**

It is the duty of any bidder, proposer or Contractor, all Subcontractors, every applicant for certification of eligibility for a City contract or program, and all officers, directors, agents, partners and employees of any bidder, proposer, Contractor, Subcontractor or such applicant to cooperate with the Inspector General in any investigation or hearing undertaken pursuant to Chapter 2-56 of the Municipal Code. Contractor understands and will abide by all provisions of Chapter 2-56 of the Municipal Code. All subcontracts must inform Subcontractors of the provision and require understanding and compliance with it.

### **6.4 MacBride Ordinance**

The City of Chicago through the passage of the MacBride Principles Ordinance seeks to promote fair and equal employment opportunities and labor practices for religious minorities in Northern Ireland and provide a better working environment for all citizens in Northern Ireland.

In accordance with Section 2-92-580 of the Municipal Code of the City of Chicago, if Contractor conducts any business operations in Northern Ireland, the Contractor must make all reasonable and good faith efforts to conduct any business operations in Northern Ireland in accordance with the MacBride Principles for Northern Ireland as defined in Illinois Public Act 85-1390 (1988 Ill. Laws 3220).

The provisions of this Section 6.4 do not apply to contracts for which the City receives funds administered by the United States Department of Transportation, except to the extent Congress has directed that the Department of Transportation not withhold funds from states and localities that choose to implement selective purchasing policies based on agreement to comply with the MacBride Principles for Northern Ireland, or to the extent that such funds are not otherwise withheld by the Department of Transportation.

### **6.5 Business Relationships with Elected Officials**

Pursuant to MCC Sect. 2-156-030(b), it is illegal for any elected official, or any person acting at the direction of such official, to contact either orally or in writing any other City official or employee with respect to any matter involving any person with whom the elected official has any business relationship that creates a financial interest on the part of the official, or the domestic partner or spouse of the official, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve months. In addition, no elected official may participate in any discussion in any City Council committee hearing or in any City Council meeting or vote on any matter involving the person with whom the elected official has any business relationship that creates a financial interest on the part of the official, or the domestic partner or spouse of the official, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve months.

Violation of MCC § 2-156-030 by any elected official with respect to this contract will be grounds for termination of this contract. The term financial interest is defined as set forth in MCC Chapter 2-156.

## **6.6 Wages**

Contractor must pay the highest of (1) prevailing wage/Davis-Bacon rate, if applicable; (2) minimum wage specified by Chicago Mayoral Executive Order 2014-1, as adjusted; (3) Chicago Minimum Wage rate specified by MCC Chapter 6-105, or (4) the highest applicable State or Federal minimum wage. The Chicago minimum wage rates and Mayoral Executive Order wage rates increase on July 1 of each year and are posted on the City website.

### **(b) Chicago Paid Sick Leave Ordinance**

Contractor understands that, to the extent that Paid Sick Leave Ordinance, codified at MCC Chapter 6-105, and as may be amended from time to time, applies to its activities, it must comply with the Ordinance.

## **6.7 Environmental Warranties and Representations**

In accordance with Section 11-4-1600(e) of the Municipal Code of Chicago, Contractor warrants and represents that it, and to the best of its knowledge, its subcontractors have not violated and are not in violation of the following sections of the Code (collectively, the Waste Sections):

- 7-28-390 Dumping on public way;
- 7-28-440 Dumping on real estate without permit;
- 11-4-1410 Disposal in waters prohibited;
- 11-4-1420 Ballast tank, bilge tank or other discharge;
- 11-4-1450 Gas manufacturing residue;
- 11-4-1500 Treatment and disposal of solid or liquid waste;
- 11-4-1530 Compliance with rules and regulations required;
- 11-4-1550 Operational requirements; and
- 11-4-1560 Screening requirements.

During the period while this Agreement is executory, Contractor's or any subcontractor's violation of the Waste Sections, whether or not relating to the performance of this Agreement, constitutes a breach of and an event of default under this Agreement, for which the opportunity to cure, if curable, will be granted only at the sole discretion of the Commissioner. Such breach and default entitles the City to all remedies under the Agreement, at law or in equity.

This section does not limit Contractor's and its subcontractors' duty to comply with all applicable federal, state, county and municipal laws, statutes, ordinances and executive orders, in effect now or later, and whether or not they appear in this Agreement.

Non-compliance with these terms and conditions may be used by the City as grounds for the termination of this Agreement, and may further affect Contractor's eligibility for future contract awards.

#### **6.8 Prohibition on Certain Contributions**

No Contractor or any person or entity who directly or indirectly has an ownership or beneficial interest in Contractor of more than 7.5% ("Owners"), spouses and domestic partners of such Owners, Contractor's Subcontractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any Subcontractor of more than 7.5% ("Sub-owners") and spouses and domestic partners of such Sub-owners (Contractor and all the other preceding classes of persons and entities are together, the "Identified Parties"), shall make a contribution of any amount to the Mayor of the City of Chicago (the "Mayor") or to his political fundraising committee during (i) the bid or other solicitation process for this Contract or Other Contract, including while this Contract or Other Contract is executory, (ii) the term of this Contract or any Other Contract between City and Contractor, and/or (iii) any period in which an extension of this Contract or Other Contract with the City is being sought or negotiated.

Contractor represents and warrants that since the date of public advertisement of the specification, request for qualifications, request for proposals or request for information (or any combination of those requests) or, if not competitively procured, from the date the City approached the Contractor or the date the Contractor approached the City, as applicable, regarding the formulation of this Contract, no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee.

Contractor 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.

The Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

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. 2011-4 constitutes a breach and default under this Contract, and under any Other Contract for which no opportunity to cure will be granted. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Contract, under Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Contractor violates this provision or Mayoral Executive Order No. 2011-4 prior to award of the Contract resulting from this specification, the Commissioner may reject Contractor's bid.

For purposes of this provision:

"Other Contract" means any agreement entered into between the Contractor and the City that is (i) formed under the authority of MCC Ch. 2-92; (ii) for the purchase, sale or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved and/or authorized by the City Council.

"Contribution" means a "political contribution" as defined in MCC Ch. 2-156, as amended.

"Political fundraising committee" means a "political fundraising committee" as defined in MCC Ch. 2-156, as amended.

#### **6.9 Firms Owned or Operated by Individuals with Disabilities**

The City encourages consultants to use Subcontractors that are firms owned or operated by individuals with disabilities, as defined by Section 2-92-586 of the Municipal Code of the City of Chicago, where not otherwise prohibited by federal or state law.

#### **6.10 Ineligibility to do Business with City**

Failure by the Contractor or any Controlling Person (defined in Section 1-23-010 of the Municipal Code) thereof to maintain eligibility to do business with the City in violation of Section 1-23-030 of the Municipal Code shall render this Contract voidable or subject to termination, at the option of the Commissioner. Contractor agrees that Contractor's failure to maintain eligibility (or failure by Controlling Persons to maintain eligibility) to do business with the City in violation of Section 1-23-030 of the Municipal Code shall constitute an event of default.

#### **6.11 Duty to Report Corrupt or Unlawful Activity**

Pursuant to §2-156-018 of the Municipal Code, it is the duty of the Contractor to report to the Inspector General, directly and without undue delay, any and all information concerning conduct which it knows to involve corrupt activity. "Corrupt Activity" means any conduct set forth in Subparagraph (a)(1), (2) or (3) of §1-23-020 of the Municipal Code. Knowing failure to make such a report will be an event of default under this Agreement. Reports may be made to the Inspector General's toll free hotline, 866-IG-TIPLINE (866-448-4754).

#### **6.12 Policy Prohibiting Sexual Harassment (Section 2-92-612 of the Chicago Municipal Code)**

For purposes of this section, "Sexual Harassment" is as defined in MCC 6-10-020. For the

avoidance of doubt, Contractor will be considered an “Employer” as defined in MCC 6-10-020.

In accordance with MCC 2-92-612, Contractor must attest by affidavit that Contractor has a written policy, compliant with the requirements of MCC 6-10-040, prohibiting Sexual Harassment. The affidavit must be in a form acceptable to the Chief Procurement Officer. Contractor’s affidavit is attached as the Appendix titled “Sexual Harassment Policy Affidavit.”

Contractor’s failure to have a written policy prohibiting Sexual Harassment as provided above shall constitute an event of default. In the event of default, the Chief Procurement Officer shall notify Contractor of such noncompliance and may, as appropriate: (i) issue Contractor an opportunity to cure consistent with the default provisions in this Contract; (ii) terminate the contract; or (iii) take any other action consistent with the default provisions in the contract. This section shall not be construed to prohibit the City from prosecuting any person who knowingly makes a false statement of material fact to the city pursuant to Chapter 1-21 of this Code, or from availing itself of any other remedies under contract or law.

### **6.13 Policy on Non-Disclosure of Salary History (Section 2-92-385 of the Chicago Municipal Code)**

For purposes of this section, the following definitions shall apply:

“Contract” means any Agreement or transaction pursuant to which a contractor (i) receives City funds in consideration for services, work or goods provided or rendered, including contracts for legal or other professional services, or (ii) pays the City money in consideration for a license, grant or concession allowing it to conduct a business on City premises, and includes any contracts not awarded or processed by the Department of Procurement Services.

“Contractor” means the person to whom a contract is awarded.

As a condition of contract award, Contractor shall attest by affidavit that Contractor has a policy that conforms to the following requirements:

- (1) Contractor shall not screen job applicants based on their wage or salary history, including by requiring that an applicant’s prior wages, including benefits or other compensation, satisfy minimum or maximum criteria; or by requesting or requiring an applicant to disclose prior wages or salary, either (i) as a condition of being interviewed, (ii) as a condition of continuing to be considered for an offer of employment, (iii) as a condition of an offer of employment or an offer of compensation, or (iv) as a condition of employment; and

- (2) Contractor shall not seek an applicant's wage or salary history, including benefits or other compensation, from any current or former employer.

Contractor's affidavit is included in the Exhibit titled "Affidavit Regarding Policy on Non-Disclosure of Salary History".

If Contractor violates the above requirements, Contractor may be deemed ineligible to contract with the City; any contract, extension, or renewal thereof awarded in violation of the above requirements may be voidable at the option of the City. Provided, however, that upon a finding of a violation by Contractor, no contract shall be voided, terminated, or revoked without consideration by the Chief Procurement Officer of such action's impact on the Contractor's MBE or WBE subcontractors.

#### **6.14 Deemed Inclusion**

Provisions required by law, ordinances, rules, regulations, or executive orders to be inserted in this Agreement are deemed inserted in this Agreement whether or not they appear in this Agreement or, upon application by either party, this Agreement will be amended to make the insertion; however, in no event will the failure to insert the provisions before or after this Agreement is signed prevent its enforcement.

### **ARTICLE 7. SPECIAL CONDITIONS**

#### **7.1 Warranties and Representations**

In connection with signing and carrying out this Agreement, Contractor:

(a) warrants that Contractor is appropriately licensed under Illinois law to perform the Services required under this Agreement and will perform no Services for which a professional license is required by law and for which Contractor is not appropriately licensed;

(b) warrants it is financially solvent; it and each of its employees, agents, Panelists and Subcontractors of any tier are competent to perform the Services required under this Agreement; and Contractor is legally authorized to execute and perform or cause to be performed this Agreement under the terms and conditions stated in this Agreement;

(c) warrants that it will not knowingly use the services of any ineligible contractor, Panelist or Subcontractor for any purpose in the performance of its Services under this Agreement;

(d) warrants that Contractor and its Subcontractors are not in default at the time this Agreement is signed, and have not been deemed by the Chief Procurement Officer to have, within 5 years immediately preceding the date of this Agreement, been found to be in default on any contract awarded by the City;

(e) represents that it has carefully examined and analyzed the provisions and requirements of this Agreement; it understands the nature of the Services required; from its own analysis it has satisfied itself as to the nature of all things needed for the performance of this Agreement; this Agreement is feasible of performance in accordance with all of its provisions and requirements, and Contractor warrants it can and will perform, or cause to be performed, the Services in strict accordance with the provisions and requirements of this Agreement;

(f) represents that Contractor and, to the best of its knowledge, its Subcontractors are not in violation of the provisions of §2-92-320 of the Municipal Code , and in connection with it, and additionally in connection with the Illinois Criminal Code, 720 ILCS 5/33E as amended, and the Illinois Municipal Code, 65 ILCS 5/11-42.1-1;

(g) acknowledges that any certification, affidavit or acknowledgment made under oath in connection with this Agreement is made under penalty of perjury and, if false, is also cause for termination under Sections 8.2 and 8.3 of this Agreement; and

(h) warrants and represents that neither Contractor nor an Affiliate of Contractor (as defined below) appears on the Specially Designated Nationals List, the Denied Persons List, the unverified List, the Entity List, or the Debarred List as maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or by 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. "Affiliate of Contractor" means a person or entity that directly (or indirectly through one or more intermediaries) controls, is controlled by or is under common control with Contractor. A person or entity will be deemed to be controlled by another person or entity if it is controlled in any manner whatsoever that results in control in fact by that other person or entity (either acting individually or acting jointly or in concert with others) whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

## **7.2 Ethics**

(a) In addition to the foregoing warranties and representations, Contractor warrants:

(i) no officer, agent or employee of the City is employed by Contractor or has a financial interest directly or indirectly in this Agreement or the compensation to be paid under this Agreement except as may be permitted in writing by the Board of Ethics established under Chapter 2-156 of the Municipal Code .

(ii) no payment, gratuity or offer of employment will be made in connection with this Agreement by or on behalf of any Subcontractors to Contractor or higher tier Subcontractors or anyone associated with them, as an inducement for the award of a subcontract or order.

(b) Contractor must comply with Chapter 2-156 of the Municipal Code. Contractor acknowledges that any Agreement entered into, negotiated or performed in violation of any of the provisions of Chapter 2-156, including any contract entered into with any person who has retained or employed a non-registered lobbyist in violation of Section 2-156-305 of the Municipal Code is voidable as to the City.

### **7.3 Joint and Several Liability**

If Contractor, or its successors or assigns, if any, is comprised of more than one individual or other legal entity (or a combination of them), then under this Agreement, each and without limitation every obligation or undertaking in this Agreement to be fulfilled or performed by Contractor is the joint and several obligation or undertaking of each such individual or other legal entity.

### **7.4 Business Documents**

At the request of the City, Contractor must provide copies of its latest articles of incorporation, by-laws and resolutions, or partnership or joint venture agreement, as applicable.

### **7.5 Conflicts of Interest**

(a) No member of the governing body of the City or other unit of government and no other officer, employee or agent of the City or other unit of government who exercises any functions or responsibilities in connection with the Services to which this Agreement pertains is permitted to have any personal interest, direct or indirect, in this Agreement. No member of or delegate to the Congress of the United States or the Illinois General Assembly and no alderman of the City or City employee is allowed to be admitted to any share or part of this Agreement or to any financial benefit to arise from it.

(b) City represents that Interviewees shall not have any direct or indirect interest, including financial interests, and will not acquire any direct or indirect interest in any Project or contract that would conflict in any manner or degree with the performance of the Services under this Agreement.

(c) Contractor represents that it, and to the best of its knowledge, its Panelists, and Subcontractors if any (Contractor, Panelists, and Subcontractors will be collectively referred to in this Section 7.5 as "**Consulting Parties**"), presently have no direct or indirect interest, including financial interests, and will not acquire any direct or indirect interest in any Project or contract that would conflict in any manner or degree with the performance of its Services under this Agreement.

(d) Upon the request of the City, Consulting Parties must disclose to the City their past client lists and the names of any clients with whom they have an ongoing relationship. Consulting Parties are not permitted to perform any Services for the City on applications or other documents submitted to the City by any of Consulting Parties' past or present clients. If Consulting Parties become aware of a conflict, they must immediately stop work on the assignment causing the conflict and notify the City.

(e) Without limiting the foregoing, if the Consulting Parties assist the City in determining the advisability or feasibility of a project or in recommending, researching, preparing, drafting or issuing a request for proposals or bid specifications for a project, the Consulting Parties must not participate, directly or indirectly, as a prime, subcontractor or joint venturer in that project or in the preparation of a proposal or bid for that project during the term of this Agreement or afterwards. The Consulting Parties may, however, assist the City in reviewing the proposals or bids for the project if none of the Consulting Parties have a relationship with the persons or entities that submitted the proposals or bids for that project.

(f) Further, Consulting Parties must not assign any person having any conflicting interest to perform any Services under this Agreement or have access to any confidential information, as described in Section 2.11 of this Agreement. If the City, by the Commissioner in his reasonable judgment, determines that any of Consulting Parties' services for others conflict with the Services that Consulting Parties are to render for the City under this Agreement, Consulting Parties must terminate such other services immediately upon request of the City.

(g) Furthermore, if any federal funds are to be used to compensate or reimburse Contractor under this Agreement, Contractor represents that it is and will remain in compliance with federal restrictions on lobbying set forth in Section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990, 31 U.S.C. §1352, and related rules and regulations set forth at 54 Fed. Reg. 52,309 ff. (1989), as amended. If federal funds are to be used, Contractor must execute a Certification Regarding Lobbying, which is part of the EDS and incorporated by reference as if fully set forth here.

#### **7.6 Non-Liability of Public Officials**

Contractor and any assignee or Subcontractor of Contractor must not charge any official, employee or agent of the City personally with any liability or expenses of defense or hold any official, employee or agent of the City personally liable to them under any term or provision of this Agreement or because of the City's execution, attempted execution or any breach of this Agreement.

#### **7.7 EDS / Certification Regarding Suspension and Debarment**

Contractor certifies, as further evidenced in the EDS attached as

Exhibit 4, by its acceptance of this Agreement that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. Contractor further agrees by executing this Agreement that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts. If Contractor or any lower tier participant is unable to certify to this statement, it must attach an explanation to the Agreement.

## **ARTICLE 8. EVENTS OF DEFAULT, REMEDIES, TERMINATION, SUSPENSION AND RIGHT TO OFFSET**

### **8.1 Events of Default Defined**

The following constitute events of default:

- (a) Any material misrepresentation, whether negligent or willful and whether in the inducement or in the performance, made by Contractor to the City.
- (b) Contractor's material failure to perform any of its obligations under this Agreement including the following:
  - (i) Failure to perform the Services with sufficient personnel and equipment or with sufficient material to ensure the timely performance of the Services;
  - (ii) Failure to have and maintain all professional licenses required by law to perform the Services;
  - (iii) Failure to timely perform the Services;
  - (iv) Failure to perform the Services in a manner reasonably satisfactory to the Commissioner or inability to perform the Services satisfactorily as a result of insolvency, filing for bankruptcy or assignment for the benefit of creditors;
  - (v) Failure to promptly re-perform, as required, within a reasonable time and at no cost to the City, Services that are rejected as erroneous or unsatisfactory;
  - (vi) Discontinuance of the Services for reasons within Contractor's reasonable control;
  - (vii) Failure to comply with Section 6.1 in the performance of the Agreement;
  - (viii) Failure promptly to update EDS(s) furnished in connection with this Agreement when the information or responses contained in it or them is no longer complete or accurate;

(ix) Failure to comply with any other material term of this Agreement, including the provisions concerning insurance and nondiscrimination; and

(x) Any other acts specifically stated in this Agreement as constituting an act of default.

(c) Any change in ownership or control of Contractor without the prior written approval of the Commissioner (when such prior approval is permissible by law), which approval the Commissioner will not unreasonably withhold.

(d) Contractor's default under any other agreement it may presently have or may enter into with the City for the duration of this Agreement. Contractor acknowledges that in the event of a default under this Agreement the City may also declare a default under any such other agreements.

(e) Contractor's violation of City ordinance(s) unrelated to performance under the Agreement such that, in the opinion of the Commissioner, it indicates a willful or reckless disregard for City laws and regulations.

## 8.2 Remedies

(a) Notices. The occurrence of any event of default permits the City, at the City's sole option, to declare Contractor in default. The Commissioner may in his sole discretion give Contractor an opportunity to cure the default within a certain period of time, which period of time must not exceed 30 days unless extended by the Commissioner. Whether to declare Contractor in default is within the sole discretion of the Commissioner and neither that decision nor the factual basis for it is subject to review or challenge under the Disputes provision of this Agreement.

The Commissioner will give Contractor written notice of the default, either in the form of a cure notice ("**Cure Notice**"), or, if no opportunity to cure will be granted, a default notice ("**Default Notice**"). If the Commissioner gives a Default Notice, he will also indicate any present intent he may have to terminate this Agreement, and the decision to terminate is final and effective upon giving the notice. If the Commissioner decides not to terminate, this decision will not preclude him from later deciding to terminate the Agreement in a later notice, which will be final and effective upon the giving of the notice or on the date set forth in the notice, whichever is later. The Commissioner may give a Default Notice if Contractor fails to effect a cure within the cure period given in a Cure Notice. When a Default Notice with intent to terminate is given as provided in this Section 8.2 and Article 10, Contractor must discontinue any Services, unless otherwise directed in the notice, and deliver all materials accumulated in the performance of this Agreement, whether completed or in the process, to the City.

(b) Exercise of Remedies. After giving a Default Notice, the City may invoke any or all of the following remedies:

(i) The right to take over and complete the Services, or any part of them, at Contractor's expense and as agent for Contractor, either directly or through others, and bill Contractor for the cost of the Services, and Contractor must pay the difference between the total amount of this bill and the amount the City would have paid Contractor under the terms and conditions of this Agreement for the Services that were assumed by the City as agent for Contractor under this Section 8.2;

(ii) The right to terminate this Agreement as to any or all of the Services yet to be performed effective at a time specified by the City;

(iii) The right of specific performance, an injunction or any other appropriate equitable remedy;

(iv) The right to money damages;

(v) The right to withhold all or any part of Contractor's compensation under this Agreement;

(vi) The right to deem Contractor non-responsible in future contracts to be awarded by the City;

(vii) The right to declare default on any other contract or agreement Contractor may have with the City.

(c) City's Reservation of Rights. If the Commissioner considers it to be in the City's best interests, the Commissioner may elect not to declare default or to terminate this Agreement. The parties acknowledge that this provision is solely for the benefit of the City and that if the City permits Contractor to continue to provide the Services despite one or more events of default, Contractor is in no way relieved of any of its responsibilities, duties or obligations under this Agreement, nor does the City waive or relinquish any of its rights.

(d) Non-Exclusivity of Remedies. The remedies under the terms of this Agreement are not intended to be exclusive of any other remedies provided, but each and every such remedy is cumulative and is in addition to any other remedies, existing now or later, at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any event of default impairs any such right or power, nor is it a waiver of any event of default nor acquiescence in it, and every such right and power may be exercised from time to time and as often as the City considers expedient.

### **8.3 Early Termination**

(a) In addition to termination under Sections 8.1 and 8.2 of this Agreement, the City may terminate this Agreement, or all or any portion of the Services to be performed under it, at any time by a notice in writing from the City to Contractor. The City will give notice to Contractor in accordance with the provisions of Article 10. The effective date of termination will be the date the notice is received by Contractor or the date stated in the notice, whichever is later. If the City elects to terminate this Agreement in full, all Services to be provided under it must cease and all materials that may have been accumulated in performing this Agreement, whether completed or in the process, must be delivered to the City effective 10 days after the date the notice is considered received as provided under Article 10 of this Agreement (if no date is given) or upon the effective date stated in the notice.

(b) After the notice is received, Contractor must restrict its activities, and those of its Subcontractors and Panelists, to winding down any reports, analyses, or other activities previously begun. No costs incurred after the effective date of the termination are allowed. Payment for any Services actually and satisfactorily performed before the effective date of the termination is on the same basis as set forth in Article 4, but if any compensation is described or provided for on the basis of a period longer than 10 days, then the compensation must be prorated accordingly. No amount of compensation, however, is permitted for anticipated profits on unperformed Services. The City and Contractor must attempt to agree on the amount of compensation to be paid to Contractor, but if not agreed on, the dispute must be settled in accordance with Article 5 of this Agreement. The payment so made to Contractor is in full settlement for all Services satisfactorily performed under this Agreement.

(c) Contractor must include in its contracts with Subcontractors an early termination provision in form and substance equivalent to this early termination provision to prevent claims against the City arising from termination of subcontracts after the early termination. Contractor will not be entitled to make any early termination claims against the City resulting from any Subcontractor's claims against Contractor or the City.

(d) If the City's election to terminate this Agreement for default under Sections 8.1 and 8.2 is determined in a court of competent jurisdiction to have been wrongful, then in that case the termination is to be considered to be an early termination under this Section 8.3.

### **8.4 Suspension**

The City may at any time request that Contractor suspend its Services, or any part of them, by giving 15 days prior written notice to Contractor or upon informal oral, or even no notice, in the event of emergency. No costs incurred after the effective date of such suspension are allowed. Contractor must promptly resume its performance of the Services under the same terms and conditions as stated in this Agreement upon written notice by the Commissioner and such equitable extension of time as may be mutually agreed upon by the Commissioner and Contractor when necessary for continuation or completion of Services. Any additional costs or expenses actually incurred by Contractor as a result of recommencing the Services must be treated in accordance with the compensation provisions under Article 4 of this Agreement.

No suspension of this Agreement is permitted in the aggregate to exceed a period of 45 days within any one year of this Agreement. If the total number of days of suspension exceeds 45 days, Contractor by written notice to the City may treat the suspension as an early termination of this Agreement under Section 8.3. For avoidance of doubt, this provision does not apply to any suspension of Services or a pause in Services when Task Orders are being developed, processed, or executed.

### 8.5 Right to Offset

(a) In connection with Contractor's performance under this Agreement, the City may offset any incremental costs and other damages the City incurs in any or all of the following circumstances:

- (i) if the City terminates this Agreement for default or any other reason resulting from Contractor's performance or non-performance;
- (ii) if the City exercises any of its remedies under Section 8.2 of this Agreement;
- (iii) if the City has any credits due or has made any overpayments under this Agreement.

The City may offset these incremental costs and other damages by use of any payment due for Services completed before the City terminated this Agreement or before the City exercised any remedies. If the amount offset is insufficient to cover those incremental costs and other damages, Contractor is liable for and must promptly remit to the City the balance upon written demand for it. This right to offset is in addition to and not a limitation of any other remedies available to the City.

(b) As provided under Section 2-92-380 of the Municipal Code, the City may set off from Contractor's compensation under this Agreement an amount equal to the amount of the fines and penalties for each *outstanding parking violation complaint* and the amount of any *debt* owed by Contractor to the City as those italicized terms are defined in the Municipal Code.

(c) In connection with any liquidated or unliquidated claims against Contractor, and without breaching this Agreement, the City may set off a portion of the price or compensation due under this Agreement in an amount equal to the amount of any liquidated or unliquidated claims that the City has against Contractor unrelated to this Agreement. When the City's claims against Contractor are finally adjudicated in a court of competent jurisdiction or otherwise resolved, the City will reimburse Contractor to the extent of the amount the City has offset against this Agreement inconsistently with such determination or resolution.

## **ARTICLE 9. GENERAL CONDITIONS**

### **9.1 Entire Agreement**

#### **(a) General**

This Agreement, and the exhibits attached to it and incorporated in it, constitute the entire agreement between the parties and no other terms, conditions, warranties, inducements, considerations, promises or interpretations are implied or impressed upon this Agreement that are not addressed in this Agreement.

#### **(b) No Collateral Agreements**

Contractor acknowledges that, except only for those representations, statements or promises contained in this Agreement and any exhibits attached to it and incorporated by reference in it, no representation, statement or promise, oral or in writing, of any kind whatsoever, by the City, its officials, agents or employees, has induced Contractor to enter into this Agreement or has been relied upon by Contractor, including any with reference to: (i) the meaning, correctness, suitability or completeness of any provisions or requirements of this Agreement; (ii) the nature of the Services to be performed; (iii) the nature, quantity, quality or volume of any materials, equipment, labor and other facilities needed for the performance of this Agreement; (iv) the general conditions which may in any way affect this Agreement or its performance; (v) the compensation provisions of this Agreement; or (vi) any other matters, whether similar to or different from those referred to in (i) through (vi) immediately above, affecting or having any connection with this Agreement, its negotiation, any discussions of its performance or those employed or connected or concerned with it.

#### **(c) No Omissions**

Contractor acknowledges that Contractor was given ample opportunity and time and was requested by the City to review thoroughly all documents forming this Agreement before signing this Agreement in order that it might request inclusion in this Agreement of any statement, representation, promise or provision that it desired or on that it wished to place reliance. Contractor did so review those documents, and either every such statement, representation, promise or provision has been included in this Agreement or else, if omitted, Contractor relinquishes the benefit of any such omitted statement, representation, promise or provision and is willing to perform this Agreement in its entirety without claiming reliance on it or making any other claim on account of its omission.

### **9.2 Counterparts**

This Agreement is comprised of several identical counterparts, each to be fully signed by the parties and each to be considered an original having identical legal effect.

### **9.3 Amendments**

Except as provided in Section 3.3 of this Agreement, no changes, amendments, modifications or discharge of this Agreement, or any part of it are valid unless in writing and signed by the authorized agent of Contractor and by the Commissioner or their respective successors and assigns. The City incurs no liability for Additional Services without a written amendment to this Agreement under this Section 9.3.

Whenever under this Agreement Contractor is required to obtain the City's prior written approval, the effect of any approval that may be granted pursuant to Contractor's request is prospective only from the later of the date approval was requested or the date on which the action for which the approval was sought is to begin. In no event is approval permitted to apply retroactively to a date before the approval was requested.

### **9.4 Governing Law and Jurisdiction**

This Agreement is governed as to performance and interpretation in accordance with the laws of the State of Illinois.

Contractor irrevocably submits itself to the original jurisdiction of those courts located within the County of Cook, State of Illinois, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Agreement. Service of process on Contractor may be made, at the option of the City, either by registered or certified mail addressed to the applicable office as provided for in this Agreement, by registered or certified mail addressed to the office actually maintained by Contractor, or by personal delivery on any officer, director, or managing or general agent of Contractor. If any action is brought by Contractor against the City concerning this Agreement, the action must be brought only in those courts located within the County of Cook, State of Illinois.

### **9.5 Severability**

If any provision of this Agreement is held or deemed to be or is in fact invalid, illegal, inoperative or unenforceable as applied in any particular case in any jurisdiction or in all cases because it conflicts with any other provision or provisions of this Agreement or of any constitution, statute, ordinance, rule of law or public policy, or for any other reason, those circumstances do not have the effect of rendering the provision in question invalid, illegal, inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions in this Agreement invalid, illegal, inoperative or unenforceable to any extent whatsoever. The invalidity, illegality, inoperativeness or unenforceability of any one or more phrases, sentences, clauses or sections in this Agreement does not affect the remaining portions of this Agreement or any part of it.

### **9.6 Assigns**

All of the terms and conditions of this Agreement are binding upon and inure to the benefit of the parties and their respective legal representatives, successors and assigns.

### **9.7 Cooperation**

Contractor must at all times cooperate fully with the City and act in the City's best interests. If this Agreement is terminated for any reason, or if it is to expire on its own terms, Contractor must make every effort to ensure an orderly transition to another provider of the Services, if any, orderly demobilization of its own operations in connection with the Services, uninterrupted provision of Services during any transition period and must otherwise comply with the reasonable requests and requirements of the Department in connection with the termination or expiration. Following termination or expiration of this Agreement, rights and obligations that by their nature should survive or which this Agreement expressly states will survive will remain in full force and effect.

### **9.8 Waiver**

Nothing in this Agreement authorizes the waiver of a requirement or condition contrary to law or ordinance or that would result in or promote the violation of any federal, state or local law or ordinance.

Whenever under this Agreement the City by a proper authority waives Contractor's performance in any respect or waives a requirement or condition to either the City's or Contractor's performance, the waiver so granted, whether express or implied, only applies to the particular instance and is not a waiver forever or for subsequent instances of the performance, requirement or condition. No such waiver is a modification of this Agreement regardless of the number of times the City may have waived the performance, requirement or condition. Such waivers must be provided to Contractor in writing.

### **9.9 Independent Contractor**

(a) This Agreement is not intended to and does not constitute, create, give rise to, or otherwise recognize a joint venture, partnership, corporation or other formal business association or organization of any kind between Contractor and the City. The rights and the obligations of the parties are only those set forth in this Agreement. Contractor must perform under this Agreement as an independent contractor and not as a representative, employee, agent, or partner of the City.

(b) This Agreement is between the City and an independent contractor and, if Contractor is an individual, nothing provided for under this Agreement constitutes or implies an employer-employee relationship such that:

(i) The City will not be liable under or by reason of this Agreement for the payment of any compensation award or damages in connection with the Contractor performing the Services required under this Agreement.

(ii) Contractor is not entitled to membership in any City Pension Fund, Group Medical Insurance Program, Group Dental Program, Group Vision Care, Group Life Insurance Program, Deferred Income Program, vacation, sick leave, extended sick leave,

or any other benefits ordinarily provided to individuals employed and paid through the regular payrolls of the City.

(iii) The City is not required to deduct or withhold any taxes, FICA or other deductions from any compensation provided to Contractor.

(c)(i) The City is subject to the June 16, 2014 the "City of Chicago Hiring Plan" (the "2014 City Hiring Plan") entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United State District Court for the Northern District of Illinois). Among other things, the 2014 City Hiring Plan prohibits the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

(ii) Contractor is aware that City policy prohibits City employees from directing any individual to apply for a position with Contractor, either as an employee or as a subcontractor, and from directing Contractor to hire an individual as an employee or as a subcontractor. Accordingly, Contractor must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel provided by Contractor under this Agreement are employees or subcontractors of Contractor, not employees of the City of Chicago. This Agreement is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by Contractor.

(iii) Contractor will not condition, base, or knowingly prejudice or affect any term or aspect of the employment of any personnel provided under this Agreement, or offer employment to any individual to provide services under this Agreement, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership in a political organization or party, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Agreement, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.

(iv) In the event of any communication to Contractor by a City employee or City official in violation of Section (ii) above, or advocating a violation of Section (iii) above, Contractor will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General, and also to the head of the relevant City Department utilizing services provided under this Agreement. Contractor will also cooperate with any inquiries by OIG Hiring Oversight related to the contract.

(d) The parties agree that this Contract is solely for the benefit of the parties and nothing herein is intended to create any third party beneficiary rights for subcontractors or other third parties.

**ARTICLE 10. NOTICES**

Notices provided for in this Agreement, unless provided for otherwise in this Agreement, must be given in writing and may be delivered personally or by placing in the United States mail, first class and certified, return receipt requested, with postage prepaid and addressed as follows:

If to the City: Department of Planning and Development  
121 North LaSalle Street, 10<sup>th</sup> Floor  
Chicago, Illinois 60602  
Attention: Commissioner

A copy of any communications or notices to the City relating to Contract interpretation, a dispute, or indemnification obligations shall also be sent by the same means set forth above to:

Department of Law  
Room 600, City Hall  
121 North LaSalle Street  
Chicago, Illinois 60602  
Attention: Corporation Counsel

If to Contractor: ULI Advisory Services  
2001 L Street, NW, Suite 200  
Washington, DC 20036  
Attention: Kelsey Steffen

Changes in these addresses must be in writing and delivered in accordance with the provisions of this Article 10. Notices delivered by mail are considered received three days after mailing in accordance with this Article 10. Notices delivered personally are considered effective upon receipt. Refusal to accept delivery has the same effect as receipt.

**ARTICLE 11. AUTHORITY**

Execution of this Agreement by Contractor is authorized by a resolution of its Board of Directors, if a corporation, or similar governing document, and the signature(s) of each person signing on behalf of Contractor have been made with complete and full authority to commit Contractor to all terms and conditions of this Agreement, including each and every representation, certification and warranty contained in it, including the representations, certifications and warranties collectively incorporated by reference in it.

*[Signature Pages, Exhibits and Schedules follow.]*

**SIGNATURE PAGE(S)**

**SIGNED at Chicago, Illinois:**

CITY OF CHICAGO

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

CONTRACTOR<sup>1</sup>

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

Leo Gonzalez

Its:Co-Managing Director, Chief Financial

Officer \_\_\_\_\_

Attest: \_\_\_\_\_

State of

County of

This instrument was acknowledged before me on \_\_\_\_\_ (date) by  
(name/s of person/s) as \_\_\_\_\_ (type of authority, e.g., officer, trustee, etc.) of  
(name of party on behalf of whom instrument was executed).

(Signature of Notary Public)

Seal:

CONTRACTOR

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

Kelsey Steffen

Its: Executive Director, Advisory Services

Attest: \_\_\_\_\_

<sup>1</sup>If Contractor is a joint venture or other legal entity for which this signature format is inappropriate, please substitute an appropriate signature page with appropriate attestation and notarization.

(Sub)Exhibits 1, 1A, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 referred to in this Professional Services Agreement with Urban Land Institute read as follows:

*(Sub)Exhibit 1.*  
(To Professional Services Agreement Between City Of Chicago,  
Department Of Planning And Development  
And Urban Land Institute)

*Scope Of Services And Time Limits For Performance.*

When the City requires advice from Contractor on any area, the City shall issue a Task Order request to Contractor in accordance with Section 2.13 of this Agreement. Upon receipt of a Task Order from the City, Contractor shall promptly convene either a Technical Assistance Panel or an Advisory Service Panel to formulate a comprehensive report of findings and advice as requested by the City.

The City may issue, in its sole discretion, Task Order requests for up to five Projects a year and Contractor shall perform the Services required for each Project. All Services required to be performed under this Agreement shall be completed before the end of the term of the Agreement. . Each Project shall be completed within 12 months from the issuance of Task Order and shall only be performed in portions of each Study Area that are located within a redevelopment project area from which funding has been authorized by City Council.

Pursuant to a Task Order, the Contractor shall perform some or all of the following responsibilities, as agreed to by the Department:

A. For Task Orders that require an Advisory Services Panel:

Contractor will organize an Advisory Services Panel (ASP) as part of a broader process to identify an approach for the disposition and development of a Study Area.

1. Contractor will meet regularly with the City of Chicago Department of Planning and Development (DPD) to talk about specific land use and development challenges and finalize the scope of the Panel, timing, travel logistics, and discuss Panel recruitment from the Contractor membership, and the preparation of briefing materials.

Contractor will arrange activities and logistics for Panelists including providing Panelists' travel, lodging, and workspace.

2. Contractor will work closely with DPD to refine the scope of work. (DPD prepares briefing materials, identifies local stakeholders for the Panelists to interview, and plans a tour of the Study Area for the Panelists.)
3. Contractor will conduct private and candid interviews with key community leaders, businesses, institutions, community and real estate leaders, residents, public officials, and others with helpful insights (collectively, "Interviewees") and allow the Panel to dig deeper into the issues surrounding the land use challenge.
  - A typical Panel will interview approximately 70 to 90 stakeholders who represent not only landowners and businesses, but community institutions and grassroots organizations that have the knowledge, history, and insight into the subject.
  - The City is responsible for identifying and inviting stakeholders to participate as Interviewees.

- The City and Contractor will work jointly to schedule the interviews with Interviewees.
4. On the Panel's second night, After identifying and confirming stakeholders, Contractor will assign the Panelists to the Interviewees based on areas of matching expertise. During the pre-planning phase the Contractor is responsible for securing and providing the venues to host these interview rooms and the introductory session, and Contractor will cover costs associated with securing the venues and any food and board costs. City will use reasonable efforts to assist Contractor in securing the venues to host these interview rooms and the introductory session.
  5. Contractor will manage the implementation of the ASP and will organize and guide participants through scheduled events, discussions, and activities.

#### **During the Panel**

A Panel will arrive in Chicago and tour and study an identified problem and offer comprehensive recommendations in five days. A typical five-day Panel week is arranged as follows:

- Sunday: Panelists' arrival, orientation;
  - Monday: Panel assignment briefing and Study Area tour, and introductory session;
  - Tuesday: Stakeholder interviews;
  - Wednesday: Panel deliberations and work sessions;
  - Thursday: Report and presentation preparation; and
  - Friday: Presentation of the Panel's findings and recommendations
6. 90 days after the completion of the Panel Contractor will submit a draft of a comprehensive report detailing the Panel's findings and recommendations (DPD will work with area stakeholders to review the draft for factual errors and submit comments on the manuscript.)
  7. Contractor will resolve the comments as appropriate and publish the report.
  8. Contractor will provide DPD with a digital version to share on the web.
  9. Perform such other responsibilities as may be required by the Department and consistent with the scope of the task order and role of ULI as an independent, third-party organization.

#### **B. For Task Orders requiring a Technical Assistance Panel:**

1. Contractor will organize a Technical Assistance Panel (TAP) as a part of a broader process to identify an approach for the disposition and development of a Study Area

2. Contractor will meet regularly with the City of Chicago Department of Planning and Development (DPD) to talk about specific land use and development challenges and discuss the scope of the Panel, timing, travel logistics, and Panel recruitment from the Contractor membership, and the preparation of briefing materials.
3. Contractor will arrange activities and logistics for Panelists including providing Panelists' travel, lodging, and workspace.
4. Contractor will work closely with DPD to refine the scope of work. (DPD prepares briefing materials, identifies local stakeholders for the Panelists to interview, and plans a tour of the Study Area for the Panelists.)
5. On the Panel's first night, Contractor will host an introductory session for the Panelists and Interviewees. The purpose of the introductory session will be to allow the Panelists to get to know the key players and to engage in informal conversation about the assignment.
6. Contractor will private and candid interviews with key community leaders, businesses, and institutions (collectively, "Interviewees") and allow the Panel to dig deeper into the issues surrounding the land use challenge.
  - A typical Panel will interview on average 50 stakeholders who represent not only landowners and businesses, but community institutions and grassroots organizations that have the knowledge, history, and insight into the subject.
  - The City is responsible for identifying and inviting stakeholders to participate as Interviewees.
  - The City and Contractor will work jointly to schedule the interviews with Interviewees.
7. After identifying and confirming stakeholders, Contractor will assign the Panelists to the Interviewees based on areas of matching expertise. During the pre-planning phase, Contractor will work with the City to determine the venue availability to host these interview rooms. If applicable, Contractor will incur any venue and/or food and board fees.
8. Contractor is responsible for securing and providing a venue to host the introductory session, and Contractor will cover costs associated with securing the venues and any food and board costs. City will use reasonable efforts to assist Contractor in securing a venue to host the introductory session.
9. Contractor will manage the implementation of the TAP and will organize and guide participants through scheduled events, discussions, and activities.
10. Contractor will present the Panel's findings and recommendations in a closed presentation at the end of the second day of the Panel.
11. 2-3 weeks following the two-day Panel, Contractor will arrange a public presentation

of the Panel's findings and recommendations.

12. 90 days after the completion of the Panel Contractor will submit a draft of a comprehensive report detailing the Panel's findings and recommendations (DPD will work with area stakeholders to review the draft and submit comments on the manuscript.)
13. Contractor will resolve the comments and publish the report.
14. Contractor will provide DPD with a digital version of the report to share on the web.
15. Perform such other responsibilities as may be required by the Department.

### *City Commitment*

The performance of the Services by the Contractor in accordance with the terms of this Agreement are conditioned upon the following City assistance with regards to the Advisory Services Panels:

1. Background Materials:
  - a. Briefing Book: The City prepares a briefing book of background materials and send a digital copy to the Contractor two weeks before the Panel. Guidelines for the briefing book are as outlined in Exhibit 1A.
  - b. Interview List: The City identifies local resource contacts for the Panel to interview, including business leaders, community and real estate leaders, residents, public officials, and others with helpful insights. The Panel will interview approximately, between 70-90 people..
  - c. On-Site Resources: The City provides additional onsite resources, including relevant plans, regulations, and market data. Contractor may request further materials during the Panels.
  - d. Maps: The City supplies site plans, base maps, and aerial photos at various scales including, at least, a small map for each Panelist during the tour, four large maps for reference during the interviews, and larger-scale maps, aerial photos, and site plans for use by the Panel's design team.
2. Events
  - a. Schedule Interviews: The City and Contractor will work together to schedule the Panel's interviews with the Interviewees. Contractor will provide a template interview schedule and guidelines for the composition and size of each interview group. During the pre-planning phase, the Contractor will be responsible for securing and providing the venue to host the interviews, and Contractor will

cover costs associated with securing a venue and any food and board costs. City will use reasonable efforts to assist Contractor in securing a venue to host these interviews. =

- b. **Introductory Session:** Contractor will host an introductory session for the Panelists and Interviewees. Contractor is responsible for securing a venue and any food and board costs. City will use reasonable efforts to assist Contractor in securing a venue to host the introductory session.
- c. **First Day Briefing:** On the Panel's first full day, the City briefs the Panel on the Study Area's history, key issues in the assignment, and the City's expectations. The briefing session is open to the City's representatives and the Panelists.
- d. **Study Area Tour:** Following the briefing, the City guides the Panel through the Study Area. The tour should be carefully planned and narrated. The City may invite key staff or others to accompany the tour and answer questions from the Panel. The City provides transportation for the tour, followed by a boxed lunch discussion.

**Panel Presentation:** The City secures a location for the final presentation and arranges audio/visual services.

3. **Public Relations**
  - a. The City determines the responsibilities of Contractor in handling press inquiries and public relations.
4. The City will allocate staff resources in the form of regional planners to support and provide technical guidance and coordinate activities with Contractor.

The performance of the Services by the Contractor in accordance with the terms of this Agreement are conditioned upon the following City assistance with regards to the Technical Assistance Panels:

1. **Background Materials**
  - a. **Briefing Book:** The City prepares a briefing book of background materials and sends a copy to each Panelist and staff person two weeks before the Panel. Guidelines for the briefing book are as outlined in Exhibit 1A.
  - b. **Interview List:** The City identifies local resource contacts for the Panel to interview, including business leaders, community and real estate leaders, residents, public officials, and others with helpful insights. The Panel will interview on average approximately 50 people.

Maps: The City supplies site plans, base maps, and aerial photos at various scales including, at least, a small map for each Panelist during the tour, four large maps for reference during the interviews, and larger-scale maps, aerial photos, and site plans for use by the Panel's design team.

2. Events

- a. **First Day Briefing:** On the Panel's first full day, the City briefs the Panel on the Study Area's history, key issues in the assignment, and the City's expectations. The briefing session is open to the City's representatives and the Panelists.
- b. **Introductory Session:** Contractor will host an introductory session for the Panelists and Interviewees. Contractor is responsible for securing a venue and any food and board costs. City will use reasonable efforts to assist Contractor in securing a venue to host the introductory session.
- c. **Study Area Tour:** Following the briefing, the City guides the Panel through the Study Area. The tour should be carefully planned and narrated. The City provides transportation for the tour.
- d. **Panel Presentation:** The City secure the location for the public presentation to occur 2-3 weeks following the two-day Panel.

*(Sub)Exhibit 1A.*  
(To Professional Services Agreement Between City Of Chicago,  
Department Of Planning And Development  
And Urban Land Institute)

*Briefing Book Guidelines.*

**Briefing Book Guidelines for Advisory Service Panels**

**General Guidelines:**

- For each Task Order, DPD shall produce a briefing book to provide Panelists with a road map of background information to refer to throughout the Panel
- Sections listed below are suggested subsections and may not be relevant to every Panel
- Briefing books should be approximately 50 – 75 pages
- Include any relevant images and maps to help illustrate content
- Full documents, reports, plans, etc. can be included in a digital resources folder

**i. Introduction**

- A. Title page
- B. Table of Contents

**iii. The Assignment**

- A. Summary of the problem (Panel scope)
- B. Questions to be addressed by the Panel

**IV. Background & History**

- A. Overview and history of the Study Area and surrounding areas
- B. Regional and city economic change and development; major employers; economic trends; effect on the Study Area
- C. Metropolitan land use and development patterns; development trends; effect on the Study Area.  
Note development of major transportation or other area-wide facilities affecting development in the Study Area

**V. Description of the Study Area (as relevant)**

- A. Physical description
  - 1. Location
  - 2. Boundaries, size
  - 3. Land uses within the Study Area (residential, commercial, industrial, institutional); surrounding land uses
  - 4. Topography, vegetation, natural resources, drainage, natural or manmade barriers or development constraints
  - 5. Transportation and access – existing and proposed
  - 6. Infrastructure and utilities - availability, location, capacity, condition
  - 7. Vacant land - location, ownership, history
  - 8. Special features, characteristics, and considerations

B. Economics of the Study Area

1. Employment types and trends
2. Major employers
  - a. Location
  - b. Size - Number of jobs
  - c. Types of jobs
3. Unemployment - level and trends
4. Income data (individual and household)

C. Demographics

1. Overview of city and Study Area population trends
2. Population size and distribution within the Study Area
3. Age distribution (by five-year cohorts), number of households, household size
4. Educational levels
5. Special features, such as university students or public housing residents

D. Housing market

1. City market conditions and trends
2. Housing types within the Study Area – Single Family, Multi Family, ownership, rental
  - a. Location and number
  - b. Age, condition, occupancy status
  - c. Sales prices or rent levels
  - d. Tenure of occupancy: current estimate and past trends
3. Current and planned residential development
4. Competitive or alternative residential locations
5. Summaries of recent housing market studies or feasibility studies (full reports can be printed and used as an onsite resource during the Panel week)

E. Private Development - current conditions and historical trends

1. Retail
  - a. Overview of area-wide retail markets
  - b. Retail development within the Study Area:
    - 1) location
    - 2) size
    - 3) type
    - 4) tenant mix: goods and services offered
    - 5) parking, access
    - 6) lease rates and terms
    - 7) physical condition
    - 8) economic condition
    - 9) unique competitive strengths or weaknesses
  - c. Competition (nearby commercial areas) - size, type, age, condition, access, tenant mix, level of activity
2. Office (as above, if applicable)
3. Industrial (as above, if applicable)

4. Summaries of any recent retail/commercial/industrial market studies or feasibility studies (full reports can be printed and used as an onsite resource during the Panel week)
5. Development potential

F. Public Investment – summary of recent and upcoming public investments (e.g. streetscape improvements, public – private partnerships)

G. Geographic Information System (GIS) Data

- To the extent possible Include all layers, shape files and aerial photography
- Minimum info: Parcel, structures, buildings, utilities, topography, transportation systems, vegetation, water bodies
- Include coordinate system and appropriate attribute tables linked to the parcel coverage, especially property assessment data (value, sales price etc)

**VI. Government**

- A. Federal government activity affecting the Study Area
- B. Summary of state laws or activity affecting the Study Area
- C. County, if applicable: type of government; departments or agencies affecting the area such as police, fire, or health departments; relevant policies, programs, plans and regulations.
- D. Local government
  1. Type of government--structure; roles and responsibilities
  2. Sources of revenue; taxation
  3. Summary of current plans affecting the Study Area, such as comprehensive plans, area plans, school system plans, capital improvement programs, etc. (full plans can be printed and used as an onsite resource during the Panel week)
  4. Summary of laws and regulations impacting land use and development in the Study Area (note any unusual or constraining provisions) (full text can be printed and used as an onsite resource during the Panel week)
  5. Agencies or departments with responsibilities in the Study Area; summary of relevant local policies and programs (such as inclusionary or subsidized housing programs, economic development programs, school busing requirements, social service programs, etc.)
  6. Local political representation: summary of key issues; type and level of interest/activity

**VII. Private Sector Involvement: Name, location, and, briefly, the history, interests, policies, programs, resources, representation, and activities of each (as relevant)**

- A. Neighborhood associations or community development associations active in or affecting the Study Area
- B. Schools, hospitals, churches, etc. within or affecting the Study Area
- C. Financial institutions, foundations, major corporations active in or interested in the area
- D. Business organizations
- E. Others as appropriate (such as private social service providers)

**VIII. Schedule**

- A. Number of days from issuance of Task Order to completion of initial draft of report.

B. Number of days for finalization of report reflecting City comments.

**Briefing Book Guidelines for Technical Assistance Panels:**



# BRIEFING BOOK OUTLINE

*The briefing book is compiled prior to the Panel and distributed in advance to all Panelists to provide a thorough background on the scope of work and Study Area. The book is distributed electronically by ULI Chicago to Panel members. It is critical that the sponsoring organization assist in the timely identification and submission of briefing book materials. The outline below is a list of sample data that may be included. Some of this information may not be available for your Study Area. ULI Chicago staff will assist in organizing a briefing book outline that addresses the scope of work.*

## **I. Study Area and Site**

1. Physical description and maps (submitted electronically in .PDF or .jpeg, 300 dpi, and produced in 36 x 24 poster size, mounted on foam core)
  - a) Land uses within the Study Area (residential, commercial, industrial, institutional); surrounding land uses
  - b) Transportation and access
  - c) Bus and train routes
  - d) Vacant land - location, ownership, history
  - e) Aerial Maps: base map of lots in Study Area (Sidwell), TIF district, zoning
  
2. Socio-economic data
  - a) Employment types and trends
  - b) Unemployment - level and trends
  - c) Major employers
    - Location
    - Size - number of jobs
    - Types of jobs
  - d) Income data (individual and household)
  
3. Demographics
  - a) Overview of city and Study Area population trends
  - b) Population size and distribution within the Study Area
  - c) Households (number; size)
  - d) Educational levels
  
4. Residential development
  - a) Planned residential development
  - b) Foreclosure and vacancy statistics

5. Commercial development (Retail; Office; Hotel; Restaurants; Attractions; Institutions)

- a) Overview of area wide markets
- b) Significant commercial development within AND adjacent to the Study Area:
  - Location
  - Size
  - Type
  - Tenant mix (goods and services offered)
  - Parking, access
  - Lease rates and terms
  - Physical condition
  - Economic condition
  - Unique competitive strengths or weaknesses

**II. Government**

1. City law or activity affecting area
  - a) Current plans affecting the Study Area, such as comprehensive plans, area plans, CPS plans, capital improvement programs, etc.
2. Federal or State law or activity affecting area

**III. Private Sector Involvement**

1. Name, location, and briefly, the history, interests, policies, programs, resources, representation, and activities of each
  - a) Neighborhood associations or community development associations active in or affecting the Study Area
  - b) Schools, hospitals, churches, etc. within or affecting the Study Area
  - c) Financial institutions, foundations, major corporations active or interested in the area
  - d) Business organizations
  - e) Others as appropriate (such as private social service providers)

*(Sub)Exhibit 2.*

(To Professional Services Agreement Between City Of Chicago,  
Department Of Planning And Development  
And Urban Land Institute)

*Schedule Of Compensation.*

All Services required to be performed under this Agreement shall be completed on or before four years from the Effective Date. Each Project shall be completed within 9 months from the start date of each Panel and shall only be performed in portions of each Study Area that are located within a redevelopment project area from which funding has been authorized by City Council.

The City will pay Contractor a maximum fixed fee of \$135,000 for each Task Order that requires an Advisory Service Panel, to be paid as follows: Contractor will receive \$65,000 upon the execution of the Task Order; \$65,000 will be paid upon presentation of the Panel's recommendations; and \$5,000 will be paid upon the City's receipt and acceptance of the final report. Such amount shall be payable upon receipt of invoice and any other required supporting documentation from Contractor for Services rendered as outlined in this Agreement.

The City will pay Contractor a maximum fixed fee of \$25,000 for each Task Order that requires a Technical Assistance Panel, to be paid as follows: Contractor will receive \$12,500 upon the execution of the Task Order; and the remaining \$12,500 will be paid upon the City's receipt and acceptance of the final report.

All fees paid by the City are inclusive of the Contractor's obligations as outlined in this Agreement.

*(Sub)Exhibit 3.*

(To Professional Services Agreement Between City Of Chicago,  
Department Of Planning And Development  
And Urban Land Institute)

(Intentionally Omitted)

*(Sub)Exhibit 4.*

(To Professional Services Agreement Between City Of Chicago,  
Department Of Planning And Development  
And Urban Land Institute)

*Economic Disclosure Statement And Affidavit.*

Attach Contractor's Completed EDS Here.

*(Sub)Exhibit 5.*

(To Professional Services Agreement Between City Of Chicago,  
Department Of Planning And Development  
And Urban Land Institute)

*Insurance Requirement And Evidence Of Insurance.*

Attach Completed Certificate Of Insurance Here.

*(Sub)Exhibit 6.*

(To Professional Services Agreement Between City Of Chicago,  
Department Of Planning And Development  
And Urban Land Institute)

(Intentionally Omitted)

*(Sub)Exhibit 7.*

(To Professional Services Agreement Between City Of Chicago,  
Department Of Planning And Development  
And Urban Land Institute)

*List Of Key Personnel.*

Name/Title:

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(Sub)Exhibit 8.

(To Professional Services Agreement Between City Of Chicago, Department Of Planning And Development And Urban Land Institute)

Sexual Harassment Policy Affidavit (Section 2-92-612).

The policy prohibiting sexual harassment as described in Section 2-92-612 of the Municipal Code of Chicago ("MCC") is applicable to contracts paid from funds belonging to or administered by the City.

In accordance with requirements set forth in Section 2-92-612 of the MCC, Contractor hereby attests that Contractor has a written policy prohibiting sexual harassment in compliance with Section 6-10-040 of the MCC.

In accordance with Section 6-10-040 of the MCC, Contractor's written policy prohibiting sexual harassment shall include, at a minimum, the following information:

- (i) a statement that sexual harassment is illegal in Chicago;
- (ii) the following definition of sexual harassment: "'Sexual harassment' means any (i) unwelcome sexual advances or unwelcome conduct of a sexual nature; or (ii) requests for sexual favors or conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or (2) submission to or rejection of such conduct by an individual is used as the basis for any employment decision affecting the individual, or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment; or (iii) sexual misconduct, which means any behavior of a sexual nature which also involves coercion, abuse of authority, or misuse of an individual's employment position.";
- (iii) a requirement that all employees participate in: (1) sexual harassment prevention training annually, (a) Employees shall participate in a minimum of one hour of sexual harassment prevention training annually, and (b) Anyone who supervises or manages employees shall participate in a minimum of two hours of sexual harassment prevention training annually, and (2) one hour of bystander training annually;
- (iv) Examples of prohibited conduct that constitute sexual harassment;
- (v) Details on: (1) how an individual can report an allegation of sexual harassment, including, as appropriate, instructions on how to make a confidential report, with an internal complaint form, to a manager, employer's corporate headquarters or human resources department, or other internal reporting mechanism; and (2) legal services, including governmental, available to employees who may be victims of sexual harassment; and
- (vi) A statement that retaliation for reporting sexual harassment is illegal in Chicago.

Contractor understands that it may be required to produce records to the Commissioner to verify the information provided. Under penalty of perjury the person signing below: (1) warrants that he/she is authorized to execute this Affidavit on behalf of Contractor, and (2) warrants that all certifications and statements contained in this Affidavit are true, accurate, and complete as of the date of execution.

Name of Contractor: Mary Beth Corrigan

(Print or Type)

Signature of Authorized Officer: [Handwritten Signature]

(Signature)

Title of Signatory: Co-interim managing director

(Print or Type)

State of District of Columbia

County of \_\_\_\_\_

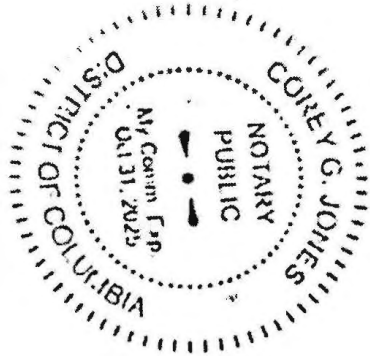
Signed and sworn (or affirmed) to before me on 6/6/2024 (date) by

Mary Beth Corrigan (name/s of person/s making statement).

Corey G. Jones

(Signature of Notary Public)

(Seal)



(Sub)Exhibit 9.

(To Professional Services Agreement Between City Of Chicago,  
Department Of Planning And Development  
And Urban Land Institute)

(Intentionally Omitted)

*(Sub)Exhibit 10.*

(To Professional Services Agreement Between City Of Chicago,  
Department Of Planning And Development  
And Urban Land Institute)

*Data Protection Requirements For Contractors, Vendors And Third-Parties.*

"Breach" means the acquisition, access, use, or disclosure of Protected Information that compromises the security or privacy of the Protected Information.

"Contractor" means an entity that receives or encounters Protected Information. Contractor includes, without limitation, entities that store Protected Information, or host applications that process Protected Information. The provisions of this Data Policy includes not only the entity that is a signatory to this Policy but all subcontractors, of whatever tier, of that entity; the signatory must inform and obtain the agreement of such subcontractors to the terms of this Data Policy.

"Protected Information" means all data provided by City to Contractor or encountered by Contractor in the performance of the services to the City, including, without limitation, all data sent to Contractor by City and/or stored by Contractor on its servers. Protected Information includes, but is not limited to, employment records, medical and health records, personal financial records (or other personally identifiable information), research data, and classified government information. To the extent there is any uncertainty as to whether any data constitutes Protected Information, the data in question shall be treated as Protected Information.

1. Information Security. Contractor agrees to the following:

- 1.1. General. Notwithstanding any other obligation of Contractor under this policy, Contractor agrees that it will not lose, alter, or delete, either intentionally or unintentionally, any Protected Information, and that it is responsible for the safe-keeping of all such information, except to the extent that the City directs the Contractor in writing to do so.
- 1.2. Access to Data. In addition to the records to be stored / maintained by Contractor, all records that are possessed by Contractor in its service to the City of Chicago to perform a governmental function are public records of the City of Chicago pursuant to the Illinois Freedom of Information Act (FOIA), unless the records are exempt under the Act. FOIA requires that the City produce records in a very short period of time. If the Contractor receives a request from the City to produce records, the Contractor shall do so within 72 hours of the notice.
- 1.3. Minimum Standard for Data at Rest and Data in Motion. Contractor must, at a minimum, comply, in its treatment of Protected Information, with National Institute of Standards and Technology (NIST) Special Publication 800-53 Moderate Level Control. Notwithstanding this requirement, Contractor acknowledges that it must fully comply with each additional obligation contained in this policy. If data is protected health information or electronic protected health information, as defined in the Health Insurance Portability and Accountability Act and Health Information Technology for Economic and Clinical Health Act (HIPAA/HITECH) and regulations implementing these Acts (see 45 CFR Parts 160 and 164), it must be secured in accordance with "Guidance Specifying the Technologies and Methodologies that Render Protected Health Information Unusable, Unreadable, or Indecipherable to Unauthorized Individuals," available on the United States Department of Health and Human Services (HHS) website <http://www.hhs.gov/ocr/privacy/hipaa/administrative/breachnotificationrule/index.html>, or at Volume 74 of the Federal Register, beginning at page 42741. That guidance from the HHS states that valid encryption processes for protected health information data at rest (e.g., protected health information resting on a server), must be consistent with the NIST Special Publication 800-111, Guide for Storage Encryption Technologies for End User Devices. Valid encryption processes for protected health information data in motion (e.g., transmitted through a network) are those which comply with NIST Special Publications 800-52, Guidelines for the Selection and Use of Transport Layer Security Implementation; 800-77, Guide to IPsec VPNs; or 800-113, Guide to SSL VPNs, or others which are Federal Information Processing Standards (FIPS) 140-2 validated.

- 1.4. Where Data is to be Stored. All data must be stored only on computer systems located in the continental United States.
- 1.5. Requirement to Maintain Security Program. Contractor acknowledges that the City has implemented an information security program to protect the City's information assets, which Program is available on the City website at [https://www.chicago.gov/city/en/depts/dgs/supp\\_info/is\\_policy.html](https://www.chicago.gov/city/en/depts/dgs/supp_info/is_policy.html) ("City Program"). Contractor shall be responsible for establishing and maintaining an information security program that is designed to: (i) ensure the security and confidentiality of Protected Information; (ii) protect against any anticipated threats or hazards to the security or integrity of Protected Information; (iii) protect against unauthorized access to or use of Protected Information; (iv) ensure the proper disposal of Protected Information; and, (v) ensure that all subcontractors of Contractor, if any, comply with all of the foregoing.
- 1.6. Undertaking by Contractor. Without limiting Contractor's obligation of confidentiality as further described herein, in no case shall the safeguards of Contractor's information security program be less stringent than the information security safeguards used by the City Program.
- 1.7. Right of Audit by the City of Chicago. The City of Chicago shall have the right to review Contractor's information security program prior to the commencement of Services and from time to time during the term of this Agreement. During the performance of the Services, from time to time and without notice, the City of Chicago, at its own expense, shall be entitled to perform, or to have performed, an on-site audit of Contractor's information security program. In lieu of an on-site audit, upon request by the City of Chicago, Contractor agrees to complete, within forty-five (45 days) of receipt, an audit questionnaire provided by the City of Chicago or the City of Chicago's designee regarding Contractor's Information security program.
- 1.8. Audit by Contractor. No less than annually, Contractor shall conduct an independent third-party audit of its information security program and provide such audit findings to the City of Chicago, all at the Contractor's sole expense.
- 1.9. Audit Findings. Contractor shall implement at its sole expense any remedial actions as identified by the City as a result of the audit.
- 1.10. Demonstrate Compliance - PCI. No less than annually, as defined by the City of Chicago and where applicable, the Contractor agrees to demonstrate compliance with PCI DSS (Payment Card Industry Data Security Standard). Upon City's request, Contractor must be prepared to demonstrate compliance of any system or component used to process, store, or transmit cardholder data that is operated by the Contractor as part of its service. Similarly, upon City's request, Contractor must demonstrate the compliance of any third party it has sub-contracted as part of the service offering. As evidence of compliance, the Contractor shall provide upon request a current attestation of compliance signed by a PCI QSA (Qualified Security Assessor).
- 1.11. Demonstrate Compliance – HIPAA / HITECH. If the Protected Information includes protected health information or electronic protected health information covered under HIPAA/HITECH, Contractor must execute, and be governed by, the provisions in its contract with the City regarding HIPAA/HITECH, the regulations implementing those Acts, and the Business Associate Agreement in its contract with the City. As specified in 1.3, protected health information must be secured in accordance with the "Guidance Specifying the Technologies and Methodologies that Render Protected Health Information Unusable, Unreadable, or Indecipherable to Unauthorized Individuals."
- 1.12. Data Confidentiality. Contractor shall implement appropriate measures designed to ensure the confidentiality and security of Protected Information, protect against any anticipated hazards or threats to the integrity or security of such information, protect against unauthorized access or disclosure of information, and prevent any other action that could result in substantial harm to the City of Chicago or an individual identified with the data or information in Contractor's custody.
- 1.13. Compliance with All Laws and Regulations. Contractor agrees that it will comply with all laws and regulations.
- 1.14. Limitation of Access. Contractor will not knowingly permit any Contractor personnel to have access to any City of Chicago facility or any records or data of the City of Chicago if the person has been convicted of a

crime in connection with (i) a dishonest act, breach of trust, or money laundering, or (ii) a felony. Contractor must, to the extent permitted by law, conduct a check of public records in all of the employee's states of residence and employment for at least the last five years in order to verify the above. Contractor shall assure that all contracts with subcontractors impose these obligations on the subcontractors and shall monitor the subcontractors' compliance with such obligations.

- 1.15. Data Re-Use. Contractor agrees that any and all data exchanged shall be used expressly and solely for the purposes enumerated in the Agreement. Data shall not be distributed, repurposed or shared across other applications, environments, or business units of Contractor. As required by Federal law, Contractor further agrees that no City of Chicago data of any kind shall be revealed, transmitted, exchanged or otherwise passed to other Contractors or interested parties except on a case-by-case basis as specifically agreed to in writing by an officer of the City of Chicago with designated data, security, or signature authority.
- 1.16. Safekeeping and Security. Contractor will be responsible for safekeeping all keys, access codes, passwords, combinations, access cards, personal identification numbers and similar security codes and identifiers issued to Contractor's employees, agents or subcontractors. Contractor agrees to require its employees to promptly report a lost or stolen access device or information to their primary business contact and to the City of Chicago Information Security Office.
- 1.17. Mandatory Disclosure of Protected Information. If Contractor is compelled by law or regulation to disclose any Protected Information, the Contractor will provide to the City of Chicago with prompt written notice so that the City of Chicago may seek an appropriate protective order or other remedy. If a remedy acceptable to the City of Chicago is not obtained by the date that the Contractor must comply with the request, the Contractor will furnish only that portion of the Protected Information that it is legally required to furnish, and the Contractor shall require any recipient of the Protected Information to exercise commercially reasonable efforts to keep the Protected Information confidential.
- 1.18. Data Breach. Contractor agrees to comply with all laws and regulations relating to data breach, including without limitation, the Illinois Personal Information Protection Act and other applicable breach disclosure laws and regulations. Data breaches of protected health information and electronic protected health information shall be governed by the provisions regarding HIPAA/HITECH, and the regulations implementing those Acts, in the Contractor's contract with the City, specifically the Business Associate Agreement in such contract. Contractor will immediately notify the City if security of any Protected Information has been breached, and will provide information as to that breach in such detail as requested by the City. Contractor will, if requested by the City, notify any affected individuals of such breach at the sole cost of the Contractor.
- 1.19. Data Sanitization and Safe Disposal. All physical and electronic records must be retained per federal, state and local laws and regulations, including the Local Records Act. Where disposal is approved, the Contractor agrees that prior to disposal or reuse of all magnetic media (e.g. hard disk, floppy disk, removable media, etc.) which may have contained City of Chicago data shall be submitted to a data sanitization process which meets or exceeds DoD 5220.28-M 3-pass specifications. Certification of the completion of data sanitization shall be provided to the City of Chicago within 10 days of completion. Acceptance of Certification of Data Sanitization by the Information Security Office of the City of Chicago is required prior to media reuse or disposal. All other materials which contain City of Chicago data shall be physically destroyed and shredded in accordance to NIST Special Publication 800-88, Guidelines for Media Sanitization, specifications.
- 1.20. End of Agreement Data Handling. The Contractor agrees that upon termination of this Agreement it shall return all data to the City of Chicago in a useable electronic form, and erase, destroy, and render unreadable all data in its entirety in accordance to the prior stated Data Sanitization and Safe Disposal provisions. Data must be rendered in a manner that prevents its physical reconstruction through the use of commonly available file restoration utilities. Certification in writing that these actions have been completed must be provided within 30 days of the termination of this Agreement or within 7 days of a request of an agent of the City of Chicago, whichever shall come first.

*(Sub)Exhibit 11.*  
(To Professional Services Agreement Between City Of Chicago,  
Department Of Planning And Development  
And Urban Land Institute)

*Supplemental Contract Terms Relating To Executive Order 2021-2.*

**1.1. Supplement to Special Conditions Regarding MBE Commitment and WBE  
Commitment or Special Conditions Regarding DBE Commitment: Quarterly Reporting**

**1.1.1. Policy**

Pursuant to Mayoral Executive Order 2021-2, contractors must submit quarterly reports regarding the utilization of MBE and WBE firms, or DBE firms, on their contracts.

**1.1.2. Projected Utilization Schedule**

Prior to contract award, anticipated contract awardee must submit a "Projected Utilization Schedule," in a form acceptable to the CPO, showing when and to what extent in the schedule for performance of the Contract the MBEs and WBEs or DBEs listed on the Schedules C and D for the Contract are expected to be used toward the contract-specific goals. Contracts that do not have goals are exempt from this requirement.

For master agreements for task order professional services awarded pursuant to a Request for Qualifications, Projected Utilization Schedules for each task will be submitted with the task order proposal and finalized prior to award or assignment of the task, as applicable.

The CPO may require explanations or submittal of a revised or more detailed Schedule at any time prior to or after award of the contract as the CPO deems appropriate in order to facilitate compliance with the M/WBE or DBE commitments of the Contract.

**1.1.3. Quarterly Summary Utilization Reports**

Each quarter, Contractor must submit a Summary Utilization Report, in a form acceptable to the CPO, comparing projected usage with actual usage. If actual usage is more than 5% below the value of projected usage (based on a percentage of the value of anticipated M/WBE expenditures), Contractor must provide an explanation for the discrepancy, and a recovery plan. Recovery plans should include a proposed revised Projected Utilization Schedule if Contractor anticipates that actual utilization will not meet projected utilization before the next quarterly report would be due. The CPO may require Contractor to meet with the City to discuss and revise the recovery plan as the CPO deems appropriate.

**1.1.4. Changes to Compliance Plan**

Requests for approval of revisions to Contractor's Compliance Plan must be accompanied by a revised Projected Utilization Schedule consistent with the request.

**1.2. Supplement to Standard Terms and Conditions: Business Diversity Program  
Reporting**

**1.2.1. Policy**

Pursuant to Mayoral Executive Order 2021-2, contractors must submit annual reports regarding the contractors' efforts regarding utilization of MBE and WBE firms, and other historically underutilized firms.

**1.2.2. Definitions**

"Business Diversity Program" means a program or initiative of a business enterprise which encourages or facilitates the use of minority-owned, women-owned, and other historically underutilized businesses as contractors, consultants, suppliers, or service providers for that business.

"Certified Firms" means firms possessing certifications recognized by the City of Chicago pursuant to MCC Chapter 2-92 or 49 CFR Parts 23 or 26. Specifically, MBEs, WBEs, BEPDs, VBEs, and DBEs.

**1.2.3. Business Diversity Program Reports**

Contractor must submit an annual report on July 1 of each year (or other date designated by the CPO) containing information about the Contractor's Business Diversity Program, if information is available. However, for Contracts awarded June 1 through July 1, the due date for the first annual report will be August 1, all subsequent reports will be due July 1. Information to be provided will include:

- Whether Contractor has a Business Diversity Program.
- Description of the Contractor's Business Diversity Program, if any.
- Information on expenditure of goods and services from minority-owned firms and women-owned firms during the prior calendar year, expressed in dollars and percentages, to the extent information is available. For reports due in 2021, information on expenditures in both 2019 and 2020 should be provided if available.
- For each year after the first year, information on progress or changes in the program in the prior year, if such information exists.

Reports shall be submitted to a City office or location anticipated to be identified by June 15, 2021.

#### **1.2.4. Applicability**

Contractor must submit the reports required by this Section 1.2 unless:

- (A) Contractor is a Certified Firm; or
- (B) The Contract is for professional consulting services of an individual who is either the majority owner of the Contractor or is him- or herself the contracting party as a sole proprietor; or
- (C) The aggregate award value of all City contracts awarded to Contractor between May 31 of the prior year and May 31 of the current year is less than \$100,000; or
- (D) The CPO has otherwise notified the Contractor in writing that the requirement does not apply or that an exception will be made as outlined in Mayoral Executive Order 2021-2.

However, Contractors not required to report may report voluntarily.

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