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**ASAT INC. REDEVELOPMENT AGREEMENT**

**M.G.R. TITLE**

BY AND BETWEEN

THE CITY OF CHICAGO

AND

ASAT, INC.

8800479

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

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Exhibit A	*Redevelopment Area
Exhibit B	*Property
Exhibit C	*TIF-Funded Improvements
Exhibit D	Redevelopment Plan [Not Attached for Recording Purposes]
Exhibit E	Construction Contract
Exhibit F	Escrow Agreement
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Exhibit M	*Form of City Note
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Exhibit P	Form of Payment Bond
Exhibit Q	Plaza Construction and Maintenance Agreement
Exhibit R-1	Architect's Opening Certificate
Exhibit R-2	Architect's Completion Certificate
Exhibit S	Mortgage, Security and Recapture Agreement

**(An asterisk(\*) indicates which exhibits are to be recorded.)**

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

## **ASAT INC. REDEVELOPMENT AGREEMENT**

This ASAT, Inc. Redevelopment Agreement (this "**Agreement**") is made as of this 31<sup>st</sup> day of May, 2007, by and between the City of Chicago, an Illinois municipal corporation (the "**City**"), through its Department of Planning and Development ("**DPD**"), and ASAT, Inc., an Illinois corporation (the "**Developer**").

### **RECITALS**

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

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

C. **City Council Authority:** To induce redevelopment pursuant to the Act, the City Council of the City (the “**City Council**”) adopted the following ordinance on May 17, 2000: “An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the Devon and Western Redevelopment Project Area,” such redevelopment plan having been previously published in the Journal of the Proceedings of the City Council for November 3, 1999, and revised as of October 22, 1999 and as of March 3, 2000; and on November 3, 1999 (2) “An Ordinance of the City of Chicago, Illinois Designating the Devon and Western Redevelopment Project Area as a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act”; and (3) “An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the Devon and Western Redevelopment Project Area” (the “**TIF Adoption Ordinance**”) (items(1)-(3) collectively referred to herein as the “**TIF Ordinances**”). The redevelopment project area referred to above (the “**Redevelopment Area**”) is legally described in **Exhibit A** hereto.

D. **The Project:** The Developer has acquired certain property located within the Redevelopment Area at 6425 N. Rockwell Avenue, Chicago, Illinois 60645 (the “**Acquisition**”), and in connection with such Acquisition, the Developer intends to acquire two parcels from the City (the “**Disposition Parcels**”) located at 6401-6415 N. Rockwell Avenue in Chicago, Illinois, all as legally described on **Exhibit B**. The development site also includes certain property which shall be vacated pursuant to ordinance and in accordance with, subject to the terms of, and as shown on the Plat of Vacation, as defined in this Agreement, (the “**Vacated Property**”), the Disposition Parcels, and the Vacated Property, collectively described in this Agreement as the “**Land**”. The Acquisition, the Disposition Parcels, and the Vacated Property are collectively described in this Agreement as the “**Property**”. On the Closing Date, the City will convey the Land (other than the Vacated Property, the rights to which shall be transferred by the recording of the vacation ordinance and Plat of Vacation) by quitclaim deed to the Developer in exchange for the Purchase Price, and within the time frames set forth in **Section 3.01** hereof, the Developer shall commence and complete construction on the Property of a 6 story approximately 141,710 square feet mixed-use retail/commercial/residential-condominium facility, which will consist of six commercial/retail spaces comprising approximately 24,790 square feet on the basement and first floors, 30 single-family condominium units with two and three bedrooms on the fifth and six floors comprising approximately 37,360 square feet and an approximately 75,083 square foot parking deck consisting of 215 on-site parking spaces between the basement and the fourth floor, 178 of which shall be for public use and 37 of which shall be for private use, which shall be managed by a professional garage operator, and a Green Roof covering 50% of available roof space (the “**Facility**”). A total of 20% of the condominium units, or six based on a total of 30, of the condominium units (the “**Affordable Units**”) will be affordable to households earning no more than 100% of the Chicago Primary Metropolitan Statistical Area median income (“**AMI**”) in compliance with the affordability guidelines established by the Chicago Department of Housing (the “**Affordability Covenants**”). All of the units will include one dedicated parking space. In connection with construction of the Facility, a portion of Rockwell Avenue south of the Facility will be closed, and at such location Developer will construct a public plaza (the “**Plaza**”) consisting of the following elements: ample benches and natural flowing shrubbery, trees and ground covers. Both street frontage on Devon and Rockwell, including the Plaza will be landscaped in accordance with the requirements of the City



landscape ordinances. (The Facility, Plaza 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”).

**E. Redevelopment Plan:** The Project will be carried out in accordance with this Agreement and the City of Chicago Devon and Western Redevelopment Project Area Tax Increment Financing Program Redevelopment Plan (the “**Redevelopment Plan**”) attached hereto as **Exhibit D**.

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

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

## SECTION 1. RECITALS

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

## SECTION 2. DEFINITIONS

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

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

“**Actual residents of the City**” shall mean persons domiciled within the City.

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

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

“**Affordability Covenants**” shall mean the income, rent, amenities, end user and occupancy restriction covenants set forth in Recital D, which shall apply for the 30 year term in compliance with the ordinances setting forth Affordability Guidelines and Affordable Housing Commitment of the City.

**“Available Incremental Taxes”** shall mean an amount equal to the Incremental Taxes deposited in the Devon and Western Redevelopment Project Area TIF Fund attributable to (a) the Designated PINs as defined below and (b) the taxes levied on the Property attributable to the Project as the taxes in (a) and (b) above are adjusted to reflect the amount of the City Fee described in **Section 4.05 (b)** hereof, excluding Incremental Taxes previously pledged by the City.

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

**“Barricades”** shall mean any barricade governed by the requirements of **Section 3.10**.

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

**“Certificate of Expenditure”** shall mean any Certificate of Expenditure referenced in the City Note pursuant to which the principal amount of the City Note will be established.

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

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

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

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

**“City Note”** shall mean the taxable Tax Increment Allocation Revenue Note (Devon and Western Redevelopment Project), Series A, to be in the form attached hereto as **Exhibit M**, in the maximum principal amount of \$1,187,800, issued by the City to the Developer upon issuance of the Certificate. The City Note shall bear interest at an annual rate, plus 275 basis points, at a rate equal to the calculation of the observed median for the 15 business days prior to issuance of the City Note of the 10 year U.S. Treasury Constant Maturities as published upon issuance of the Certificate in the then current Federal Reserve Statistical Release H-15, but not to exceed nine percent (9%) nor to be less than six percent (6%). In the event that Federal Reserve Statistical Release H-15 is no longer available, such interest rate will be determined based on a comparable index at determined by DPD.

**“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.

**“Completion Date”** shall mean the date on which the preconditions of disbursement set forth in Section 4.07 are satisfied.

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

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

“**Designated PINs**” shall mean Developer-owned property (or property formerly owned by Developer) in the Redevelopment Area consisting of the following Project Identification Numbers: 11-31-316-030, 11-31-316-031, 11-31-316-032, 11-31-316-033, 11-31-316-034 and 11-31-316-035.

“**Developer’s Architect**” shall mean Hanna Architects.

“**Devon and Western 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.

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

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

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

“**Escrow**” shall mean the construction escrow, if any, established pursuant to the Escrow Agreement with Chicago Title Insurance Company.

“**Escrow Agreement**” shall mean the Escrow Agreement with Chicago Title Insurance Company establishing a construction escrow, to be entered into as of the date hereof by the Title Company (or an affiliate of the Title Company), the Developer and the Developer's lender(s), substantially in the form of **Exhibit F** attached hereto.

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

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

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

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

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

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

**“Inspecting Agent or Architect”** shall mean Hanna Architects.

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

**“Management Agreement”** shall mean that certain agreement covering management of the garage owned by the Developer and located within the Facility.”

**“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**.

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

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

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

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

“**Plat of Vacation**” shall mean that certain plat of vacation vacating public right of way to the Developer as approved by the ordinance of the City Council adopted on December 7, 2006 and published in the Journal of Proceeding for such date at pages 95340 through 95344.

“**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**, showing the total cost of the Project by line item, furnished by the Developer to DPD, in accordance with **Section 3.03** hereof.

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

“**Purchase Price**” shall mean the cash consideration to be paid by the Developer for acquisition of the Disposition Parcels as defined in **Section 3.14** from the City being in the amount of One Dollar (\$1.00).

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

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

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

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

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

“**Survey**” shall mean a Class A plat of survey in the most recently revised form of ALTA/ACSM land title survey of the Property dated within 45 days prior to the Closing Date, acceptable in form and content to the City and the Title Company, prepared by a surveyor registered

in the State of Illinois, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and updates thereof to reflect improvements to the Property in connection with the construction of the Facility and related improvements as required by the City or lender(s) providing Lender Financing).

“**Term of the Agreement**” shall mean the period of time commencing on the Closing Date and ending the date on which the Redevelopment Area is no longer in effect (through and including December 31, 2023).

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

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

“**Tif-Funded Interest Costs**” shall mean those costs which (i) are included within the definition of redevelopment project costs in Section 5/11-74.4-3(q) of the Act and are included in the Plan and (ii) have the meaning set forth in **Section 4.02** hereof.

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

“**Title Company**” shall mean Mercury Title Co., LLC.

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

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

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

## SECTION 3. THE PROJECT

**3.01 The Project.** With respect to the Facility, the Developer shall, pursuant to the Plans and Specifications and subject to the provisions of Section 18.17 hereof: (i) commence construction no later than, June 1, 2007; and (ii) complete construction and conduct business operations therein no later than May 31, 2009. In addition to the construction of the Project, Developer will obtain evidence that the County Assessors Office, Divisions Department, will assess the Property on the following basis: (i) with respect to the retail/commercial/garage parcel portion of the Facility, the County will allocate costs of the Facility pro rata (based on actual dimensions) so that a separate pro rata valuation will apply to the portion of the Facility within the Redevelopment Project Area; and (ii) with respect to the residential portion of the Project, the Developer's Architect has satisfied the County that the Facility has been configured and constructed so that 22 of the condominium units (22) and all of the Affordable Units are entirely within the Redevelopment Project Area, which will allow for the allocation of tax increment to such condominium units consistent with the TIF Ordinances.

**3.02 Scope Drawings and Plans and Specifications.** The 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. The Developer shall submit all necessary documents to the City's Building Department, Department of Transportation and such other City departments or governmental authorities as may be necessary to acquire building permits and other required approvals for the Project.

**3.03 Project Budget.** The Developer has furnished to DPD, and DPD has approved, a Project Budget showing total costs for the Project in an amount not less than \$15,965,260. The 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. The Developer hereby certifies to the City that (a) it has Lender Financing and Equity in an amount sufficient to pay for all Project costs; and (b) the Project Budget is true, correct and complete in all material respects. The Developer shall promptly deliver to DPD certified copies of any Change Orders with respect to the Project Budget for approval pursuant to Section 3.04 hereof.

**3.04 Change Orders.** Except as provided below, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to material changes to the Project must be submitted by the Developer to DPD concurrently with the progress reports described in Section 3.07 hereof; provided, that any Change Order relating to any of the following must be submitted by the Developer to DPD for DPD's prior written approval: (a) a reduction in the square footage of the Facility by more than 5%; (b) a change in the use of the Property, including a change to a use other than residential/commercial/retail/parking; (c) reduction in the number of parking spaces; or (d) a delay in the completion of the Project that extends the schedule by more than

60 days. The Developer shall not authorize or permit the performance of any work relating to any Change Order or the furnishing of materials in connection therewith prior to the receipt by the Developer of DPD's written approval (to the extent required in this section).

**3.05 DPD Approval.** Any approval granted by DPD of the Scope Drawings, Plans and Specifications and the Change Orders is for the purposes of this Agreement only and does not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval, nor does any approval by DPD pursuant to this Agreement constitute approval of the quality, structural soundness or safety of the Property or the Project.

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

**3.07 Progress Reports and Survey Updates.** The Developer shall provide DPD with written quarterly 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's written approval pursuant to **Section 3.04**). The Developer shall provide three (3) copies of an updated Survey to DPD upon the request of DPD or any lender providing Lender Financing, reflecting improvements made to the Property.

**3.08 Inspecting Agent or Architect.** An independent agent or architect (other than the Developer's architect) approved by DPD shall be selected to act as the inspecting agent or architect, at the Developer's expense, for the Project. The inspecting agent or architect shall perform periodic inspections with respect to the Project, providing certifications with respect thereto to DPD, prior to requests for disbursement for costs related to the Project.

**3.09 Architect's Certificates and Periodic Reports.** The Developer has contracted with the Developer's Architect to act as its architect on the Project. The Developer's Architect shall provide the following documents to DPD:

(a) at the time of execution of this Agreement, an original executed Architect's Opening Certificate in the form attached hereto as Exhibit R-1;

(b) during construction of the Project on a monthly basis, a copy of AIA Form G-703, or a comparable form containing the same information as AIA Form G-703, and inspection reports specified in Section 3.08; and



(c) upon completion of the Project, an original executed Architect's Completion Certificate in the form attached hereto as Exhibit R-2.

**3.10 Barricades.** Prior to commencing any construction requiring barricades, the Developer shall install a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all applicable federal, state or City laws, ordinances and regulations. DPD retains the right to approve the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades.

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

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

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

**3.14 Conveyance of Disposition Parcels.** On the Closing Date, the City shall convey to Developer and Developer shall accept title to the Land (excluding the Vacated Property) by quitclaim deed. The Vacated Property shall be conveyed to the Developer on such date by the recording of the ordinance approving the Plat of Vacation.

(a) 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 Agreement and the Permitted Liens, be subject to the following:

- (i) the Redevelopment Plan and the Redevelopment Area;
- (ii) the standard exceptions in an ALTA insurance policy unless said exceptions are otherwise endorsed by the Title Company;
- (iii) taxes due and payable with respect to the period on and after the Closing Date;

- (iv) any easements, encroachments, covenants and restrictions of record and not shown of record, including the Northwest Industrial Corridor Redevelopment Project Area Plan;
- (v) such other title defects as may exist;
- (vi) a retained right of reverter as contained in such deed entitling the City to reacquire title to the Land in the event the Developer fails to develop the Land in accordance within the time frames set forth in this Agreement, as such date(s) may be extended in accordance with Section 3.01 and Section 18.17; and
- (vii) special assessments or other taxes, if any.

(b) Disposition Parcels Closing. The Disposition Parcels closing shall occur on the Closing Date after the Developer satisfies all conditions precedent to the closing, including without limitation, payment to the City of the amount due for the Disposition Parcels (the "Purchase Price") and all other conditions set forth in Section 5 hereof.

(c) Recordation of Quitclaim Deed and Title Policy. The Developer shall promptly record at its own expense the quitclaim deed for the Disposition Parcels in the Recorder of Deeds Office of Cook County. The Developer shall pay all costs for so recording the quitclaim deed. The Title Policy shall be obtained and delivered in connection with the closing on the Closing Date at Developer's sole expense.

(d) Escrow and Miscellaneous Title Insurance Matters. In the event that the Developer requires conveyance through an escrow, the Developer shall pay all escrow fees. The City and Developer shall also execute and deliver routine statements, declarations and undertakings customarily required by the Title Company to issue the Title Policy.

(e) Real Estate Taxes. The City agrees to use reasonable efforts to obtain the waiver of any delinquent real estate tax liens on the Disposition Parcels, to the extent that such taxes may be waived or abated by writing the County Assessor a customary abatement letter or filing a motion to vacate any tax sale made in error. Developer will be responsible for all taxes accruing after the Closing.

(f) In addition, the Land shall be conveyed to Developer 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 sole responsibility of Developer, at its sole expense, to investigate and determine the soil and environmental conditions of the Land. If the soil conditions are not in all respects entirely suitable for the use or uses to which the Land is intended to be utilized for under this Agreement, then it shall be the sole responsibility and obligation of Developer to take such action as may be necessary to place the soil and environmental condition of

the Land in a condition entirely suitable for the intended uses under this Agreement. The Developer will, at the Developer's expense, comply with any recommended actions set forth in Phase II Environmental Site Assessment for the Report for the Property (Project No. E07-1150022) prepared by GSG Consultants, dated as of February 2007. After the Closing Date, the Developer shall have no recourse whatsoever against the City under any Environmental Law or any other law, rule or regulation for the environmental, soil or other condition of the Land.

## SECTION 4. FINANCING

**4.01 Total Project Cost and Sources of Funds.** The cost of the Project is estimated to be \$15,965,260, to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

Equity (subject to <b>Sections 4.03(b) and 4.06</b> )	\$ 1,773,815
Lender Financing	9,820,866
Donation of City Land	915,000
Estimated City Funds (subject to <b>Section 4.03</b> )	<u>3,455,579</u>
 <b>ESTIMATED TOTAL</b>	 <b>\$15,965,260</b>

**4.02 Developer Funds.** Equity and/or Lender Financing shall be used to pay all Project costs, including but not limited to Redevelopment Project costs and costs of TIF-Funded Improvements.

### **4.03 City Funds.**

(a) **Uses of City Funds.** City Funds may only be used to make principal and interest payments on the City Note and to reimburse the Developer for costs of TIF-Funded Improvements, including TIF-Funded Interest Costs 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 **Section 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. Available Incremental Taxes in the Devon and Western TIF-Fund may be paid to the Developer as of the date of issuance of the Certificate for those TIF-Funded Improvements specified in Exhibit C as payable upon issuance of such Certificate, but any such payment shall be subject to Section 4.07 of this Agreement. Interest shall not accrue under the City Note until such time that the initial payment of City Funds may be made under **Section 4.07**. City Funds, in any event, shall not be paid to the Developer hereunder prior to the issuance of a Certificate.

(b) **Sources of City Funds.** Subject to the terms and conditions of this Agreement, including but not limited to this **Section 4.03** and **Section 5** hereof, the City hereby agrees to provide City

Funds from the sources and in the amounts described directly below (the “City Funds”) to pay for or reimburse the Developer for the costs of the TIF-Funded Improvements:

<u>Source of City Funds</u>	<u>Maximum Amount</u>
Available Incremental Taxes	\$3,455,579

The initial disbursement of City Funds shall be made after issuance of the Certificate as follows: (a) \$300,000 (to reimburse Developer for a portion of the costs attributable to the Plaza) and (b) a payment in an amount anticipated to be approximately \$95,797 (as set forth on Exhibit C) as partial payment of construction interest (“Initial Disbursement”). In addition, the City shall reimburse the Developer 30% of eligible interest cost on Lender Financing (“TIF-Funded Interest Costs”) during the term of this Agreement while the Lender Financing remains outstanding and so long as the TIF-Funded Interest Costs, may, under the Act, be legally paid out of Available Incremental Taxes. The TIF-Funded Interest Costs shall be paid annually by the City to Developer to reimburse Developer for such costs upon submission of an executed Requisition Form for the TIF-Funded Interest Cost in the form attached hereto as Exhibit L. Provided, however, that the total amount of City Funds expended for TIF-Funded Improvements shall be an amount not to exceed \$3,455,579; and provided further, that the \$3,455,579 to be derived from Available Incremental Taxes shall be available to pay costs related to TIF-Funded Improvements and allocated by the City for that purpose only so long as the following:

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

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

Subject to the terms and conditions of this Agreement, including but not limited to this **Section 4.03** and **Section 5** hereof, the City hereby agrees to issue the City Note to the Developer upon issuance of the Certificate of Completion. The principal amount of the City Note shall be in an amount equal to the costs of the TIF-Funded Improvements which have been incurred by the Developer (less the amount of the Initial Disbursement and the estimated TIF-Funded Interest Costs) and are to be reimbursed by the City through payments of principal and interest on the City Note, subject to the provisions hereof; provided, however, that the maximum principal amount of the City Note shall be an amount not to exceed \$1,187,800; and provided further, that payments under the City Note shall be payable only after payment of TIF-Funded Interest Costs as set forth above and are subject to the amount of Available Incremental Taxes deposited into the Devon and Western TIF fund for the

Redevelopment Area being sufficient for such payments, and further shall not cause the maximum amount paid pursuant to this Agreement to exceed the maximum amount of City Funds to be made available under this Agreement, or \$3,455,579. The Developer acknowledges and agrees that the City shall be free to reserve, pledge and commit Incremental Taxes to other tax parcels in the Redevelopment Area.

#### **4.04 Construction Escrow; Requisition Form.**

(a) The City must receive copies of any draw requests and related documents submitted to the Chicago Title Insurance Company for disbursements under the Escrow Agreement.

(b) **Prior to the initial payment to the Developer upon issuance of the Certificate of Completion and prior to each January 1 (or such other date as the parties may agree to) thereafter, beginning upon issuance of the Certificate and continuing throughout the earlier of (i) the Term of the Agreement or (ii) the date that the Developer has been reimbursed in full under this Agreement, the Developer shall provide DPD with a Requisition Form, along with the documentation described therein. Requisition for reimbursement of TIF-Funded Improvements shall be made not more than one time per calendar year (or as otherwise permitted by DPD).**

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

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

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

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

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

**4.07 Preconditions of Disbursement /Execution of Certificate of Expenditure.** Prior to each disbursement of City Funds hereunder and/or prior to execution of a Certificate of Expenditure, the Developer shall submit documentation regarding the applicable expenditures to DPD, which shall be satisfactory to DPD in its sole discretion. Delivery by the Developer to DPD of any request for disbursement of City Funds and/or 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 disbursement and/or request for execution of a Certificate of Expenditure, that:

(a) the total amount of the disbursement request and/or for Certificate of Expenditure represents the actual cost of the item or the actual amount payable to (or paid to) the General Contractor and/or subcontractors who have performed work on the Project, and/or their payees;

(b) all amounts shown as previous payments on the current disbursement request and/or request for Certificate of Expenditure have been paid to the parties entitled to such payment;

(c) the Developer has approved all work and materials for the current disbursement request and/or request for Certificate of Expenditure, and such work and materials conform to the Plans and Specifications;

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

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

(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 the Developer pursuant to this Agreement. The Developer hereby agrees that, if the Project is not In Balance, the Developer shall, within 10 days after a written request by the City, deposit with the escrow agent or will make available (in a manner acceptable to the City), cash in

an amount that will place the Project In Balance, which deposit shall first be exhausted before any further disbursement of the City Funds shall be made.

The City shall have the right, in its discretion, to require the Developer to submit further documentation as the City may require in order to verify that the matters certified to above are true and correct, and any disbursement and/or execution 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 Developer. In addition, the Developer shall have satisfied all other preconditions of disbursement of City Funds for each disbursement and/or execution of a Certificate of Expenditure, including but not limited to requirements set forth in the Bond Ordinance, if any, 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.

**4.09 Environmental Matters Concerning the Land.**

(a) The City makes no covenant, representation or warranty as to the environmental condition of the Land or the suitability of the Land for any purpose whatsoever, and Developer agrees to accept the Land "as is."

(b) It is the responsibility of Developer, at its sole cost and expense, to investigate and determine the soil and environmental condition of the Disposition Parcels. Prior to the Closing, Developer will have the right to request a right of entry for the purpose of conducting environmental tests on the Land. If such a request is made, the City will grant Developer a right of entry for such purpose. The granting of the right of entry, however, will be contingent upon Developer obtaining all necessary permits and the following types and amounts of insurance: (x) commercial general liability insurance with a combined single limit of not less than \$1,000,000.00 per occurrence for bodily injury, personal injury and property damage liability with the City named as an additional insured; (y) automobile liability insurance with limits of not less than \$1,000,000.00 per occurrence, combined single limit for bodily injury and property damage; and (z) worker's compensation and occupational disease insurance in statutory amounts covering all employees and agents who are to perform any work on the Land. All insurance policies will be from insurance companies authorized to do business in the State of Illinois, and will remain in effect until completion of all activity on the Land. Developer will deliver duplicate policies or certificates of insurance to the City prior to commencing any activity on the Land. Developer expressly understands and agrees that any coverage and limits furnished by Developer will in no way limit Developer's liabilities and responsibilities stated in this Agreement.

(c) Developer agrees to carefully inspect the Land prior to the commencement of any activity on the Land to make sure that such activity will not damage surrounding property, structures, utility lines or any subsurface lines or cables. Developer will be solely responsible for the safety and

protection of the public. The City reserves the right to inspect any work being done on the Land. Developer's activities on the Land will be limited to those reasonably necessary to perform the environmental testing, or, subject to the terms of an agreed upon right of entry, remediation work. Upon completion of the work, Developer agrees to restore the Land to their original condition. Developer will keep the Land free from any and all liens and encumbrances arising out of any work performed, materials supplied or obligations incurred by or for Developer, and agrees to indemnify and hold the City harmless against any such liens.

(d) Developer agrees to deliver to the City a copy of each report, if any, prepared by or for Developer regarding the environmental condition of the Land. If prior to the Closing, Developer's environmental consultant determines that contamination exists on the Land to such extent that the parties agree that the estimated cost of remediation (such estimated cost being determined by the consultant) is too excessive for Developer, Developer may declare the Real Estate Purchase Sections (Sections 3.13 and 4.08) of this Agreement null and void by giving written notice thereof to the City. Developer agrees that a request to terminate the real estate purchase provisions for the Land will not be made until all reports concerning the condition of the Land have been reviewed by the City.

(e) If after the Closing Date, the environmental condition of the Land is not in all respects entirely suitable for the use to which the Land is to be utilized, it will be the sole responsibility and obligation of Developer to take such action as is necessary to put the Land in a condition which is suitable for the intended use of the Land and the Developer shall have no recourse whatsoever against the City under any Environmental Law or any other law, rule or regulation for the environmental, soil or other condition of the Land and shall undertake and discharge all liabilities of the City arising from any environmental condition which existed on the Property prior to the Closing Date, including, without limitation, liabilities arising under CERCLA. The provisions of this paragraph shall survive the Closing Date or any termination of this agreement (regardless of the reason of such termination)

## SECTION 5. CONDITIONS PRECEDENT

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

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

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



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

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

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

**5.06 Evidence of Clean Title.** The Developer, at its own expense, has provided the City with searches under the Developer's name (and the following trade names of the Developer: Asat, Inc.) as follows:

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

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

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

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

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

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

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

**5.12 Documentation.** The Developer has provided documentation to DPD, satisfactory in form and substance to DPD, with respect to current employment matters, and any other matters which relate to the Project as requested by DPD.

**5.13 Environmental.** The Developer has provided DPD with copies of that certain phase I environmental audit completed with respect to the Property and any Phase II environmental audit with respect to the Property required by the City. The Developer has provided the City with a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits, and the IEPA or the City's DOE has provided written verification that all identified environmental issues have been resolved or a commitment from Developer satisfactory to the city's DOE that such environmental matters will be resolved to the City's satisfaction.

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

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

**5.16 Plaza Construction and Maintenance Agreement.** The Developer shall have entered into an agreement with the City substantially in the form attached hereto as **Exhibit Q** covering the construction and maintenance of the Plaza and obtained necessary permits with respect to such construction and maintenance obligations.

**5.17 Management Agreement.** The Developer has provided to Corporation Counsel and DPD a copy the Management Agreement and any additional management agreements related to the Facility. Such Management Agreement shall be subordinated to the Redevelopment Agreement.

**5.18 Plat of Vacation.** On the Closing Date, the ordinance approving the Plat of Vacation shall be or shall have been recorded.

## SECTION 6. AGREEMENTS WITH CONTRACTORS

**6.01 Bid Requirement for General Contractor and Subcontractors.** (a) Except as set forth in **Section 6.01(b)** below, prior to entering into an agreement with a General Contractor or any subcontractor for construction of the Project, the Developer shall solicit, or shall cause the General Contractor to solicit, bids from qualified contractors eligible to do business with, and having an office located in, the City of Chicago, and shall submit all bids received to DPD for its inspection and written approval. (i) For the TIF-Funded Improvements, the Developer shall select the General Contractor (or shall cause the General Contractor to select the subcontractor) submitting the lowest responsible bid who can complete the Project in a timely manner. If the Developer selects a General Contractor (or the General Contractor selects any subcontractor) submitting other than the lowest responsible bid for the TIF-Funded Improvements, the difference between the lowest responsible bid and the bid selected may not be paid out of City Funds. The Developer shall submit copies of the Construction Contract to DPD in accordance with **Section 6.02** below. Photocopies of all subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD within five (5) business days of the execution thereof. The Developer shall ensure that the General Contractor shall not (and shall cause the General Contractor to ensure that the subcontractors shall not) begin work on the Project until the Plans and Specifications have been approved by DPD and all requisite permits have been obtained.

(b) If, prior to entering into an agreement with a General Contractor for construction of the Project, the Developer does not solicit bids pursuant to **Section 6.01(a)** hereof, then the fee of the General Contractor proposed to be paid out of City Funds shall not exceed 10% of the total amount of the Construction Contract. Except as explicitly stated in this paragraph, all other provisions of

**Section 6.01(a)** shall apply, including but not limited to the requirement that the General Contractor shall solicit competitive bids from all subcontractors.

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

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

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

**6.05 Other Provisions.** In addition to the requirements of this **Section 6**, the Construction Contract and each contract with any subcontractor shall contain provisions required pursuant to **Section 3.04** (Change Orders), **Section 8.09** (Prevailing Wage), **Section 10.01(e)** (Employment Opportunity), **Section 10.02** (City Resident Employment Requirement), **Section 10.03** (MBE/WBE Requirements, as applicable), **Section 12** (Insurance) and **Section 14.01** (Books and Records) hereof. Photocopies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD within five (5) business days of the execution thereof.

## **SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION**

**7.01 Certificate of Completion of Construction or Rehabilitation.** Upon completion of the construction of the Project in accordance with the terms of this Agreement and after the final disbursement from the Escrow, and upon the Developer's written request, DPD shall issue to the Developer a Certificate in recordable form certifying that the Developer has fulfilled its obligation to complete the Project in accordance with the terms of this Agreement. DPD shall respond to the Developer's written request for a Certificate within forty-five (45) days by issuing either a Certificate or a written statement detailing the ways in which the Project does not conform to this Agreement

or has not been satisfactorily completed, and the measures which must be taken by the Developer in order to obtain the Certificate. The Developer may resubmit a written request for a Certificate upon completion of such measures. Provided, however, no Certificate will be issued unless Developer provides the City with evidence of the following: (a) that the sale of 75% of the market rate units and 100% of all the Affordable Units have closed along with providing to DPD a copy of all 6 recorded recapture mortgages showing full compliance with the provisions of Section 8.20; (b) that Developer has met employment requirements under Section 6; and (c) Developer has obtained written assurances from the County Assessors Office, Divisions Department, that the Facility will be assessed on the following basis: (i) with respect to the retail/commercial/garage parcel portion of the Facility, the County will allocate costs of the Facility pro rata (based on actual dimensions) so that a separate pro rata valuation (based on actual dimensions) will apply to parcels within the Redevelopment Project Area; (ii) the Developer's Architect has satisfied the County that the Facility has been configured and constructed so that 22 of the condominium units and all of the Affordable Units are entirely within the Redevelopment Project Area, which will allow for the allocation of tax increment to such units consistent with the TIF Ordinances.

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

Those covenants specifically described at **Sections 8.01(n), 8.02, 8.19 and 8.20** as covenants that run with the land are the only covenants in this Agreement intended to be binding upon any transferee of the Property (including an assignee as described in the following sentence) throughout the Term of the Agreement notwithstanding the issuance of a Certificate; provided, that upon the issuance of a Certificate, the covenants set forth in **Section 8.02** shall be deemed to have been fulfilled. The other executory terms of this Agreement that remain after the issuance of a Certificate shall be binding only upon the Developer or a permitted assignee of the Developer who, pursuant to **Section 18.15** of this Agreement, has contracted to take an assignment of the Developer's rights under this Agreement and assume the Developer's liabilities hereunder.

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

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

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

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

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

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

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

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

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

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

(d) unless otherwise permitted or not prohibited pursuant to or under the terms of this Agreement, the Developer shall acquire and shall maintain good, indefeasible and merchantable fee simple title to the Property (and all improvements thereon) free and clear of all liens (except for the Permitted Liens, Lender Financing as disclosed in the Project Budget and non-governmental charges that the Developer is contesting in good faith pursuant to **Section 8.15** hereof);

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

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

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

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

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

(j) prior to the issuance of a Certificate, the Developer shall not do any of the following without the prior written consent of DPD: (1) be a party to any merger, liquidation or consolidation; (2) sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or any portion of the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto) except in the ordinary course of business; (3) enter into any transaction outside the ordinary course of the Developer's business; (4) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity; or (5) enter into any transaction that would cause a material and detrimental change to the Developer's financial condition;

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

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

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

(n) Developer shall not convert any non-residential portion of the Project to a condominium or co-operative form of ownership during the Term of the Agreement (other than as specifically provided for in this Agreement) and shall execute and record appropriate documents, and cooperate with the City, to assure that at all times the residential portions of the Project shall remain residential property in accordance with the Affordability Covenants. The covenant set forth in this Section 8.01(n) shall run with the land and be binding upon any transferee of the Property.

**8.02 Covenant to Redevelop.** Upon DPD's approval of the Project Budget, the Scope Drawings and Plans and Specifications as provided in Sections 3.02 and 3.03 hereof, and the Developer's receipt of all required building permits and governmental approvals, the Developer shall redevelop the Property in accordance with this Agreement and all Exhibits attached hereto, the Bond Ordinance, the Scope Drawings, Plans and Specifications, Project Budget and all amendments thereto, and all federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project, the Property and/or the Developer. The covenants set forth in this Section shall run with the land and be binding upon any transferee, including specifically but not without limitation, the Affordability Covenants.

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

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

**8.05 Other Bonds.** The Developer shall, at the request of the City, agree to any reasonable amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole discretion) any bonds in connection with the Redevelopment Area, the proceeds of which may be used to pay outstanding interest and principal on the City Note and to reimburse the City for



expenditures made in connection with, or provide a source of funds for the payment for, the TIF-Funded Improvements (the “**Bonds**”); provided, however, that any such amendments shall not have a material adverse effect on the Developer or the Project. The Developer shall, at the Developer's expense, cooperate and provide reasonable assistance in connection with the marketing of any such Bonds, including but not limited to providing written descriptions of the Project, making representations, providing information regarding its financial condition and assisting the City in preparing an offering statement with respect thereto.

#### **8.06 [Intentionally Omitted].**

**8.07 Employment Opportunity; Progress Reports.** The Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each subcontractor to abide by the terms set forth in **Section 10** hereof. The Developer shall deliver to the City monthly written progress reports detailing compliance with the requirements of **Sections 8.08, 10.02 and 10.03** of this Agreement. If any such reports indicate a shortfall in compliance, the Developer shall also deliver a plan to DPD which shall outline, to DPD's satisfaction, the manner in which the Developer shall correct any shortfall.

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

**8.09 Prevailing Wage.** The Developer covenants and agrees to pay, and to contractually obligate and cause the General Contractor and each subcontractor to pay, the prevailing wage rate as ascertained by the Illinois Department of Labor (the “**Department**”), to all Project employees. All such contracts shall list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If the Department revises such prevailing wage rates, the revised rates shall apply to all such contracts. Upon the City's request, the Developer shall provide the City with copies of all such contracts entered into by the Developer or the General Contractor to evidence compliance with this **Section 8.08**.

**8.10 Arms-Length Transactions.** Unless DPD has given its prior written consent with respect thereto, no Affiliate of the Developer may receive any portion of City Funds, directly or indirectly, in payment for work done, services provided or materials supplied in connection with any TIF-Funded Improvement. The Developer shall provide information with respect to any entity to receive City Funds directly or indirectly (whether through payment to the Affiliate by the Developer and reimbursement to the Developer for such costs using City Funds, or otherwise), upon DPD's request, prior to any such disbursement.

**8.11 Conflict of Interest.** Pursuant to Section 5/11-74.4-4(n) of the Act, the Developer represents, warrants and covenants that, to the best of its knowledge, no member, official, or employee of the City, or of any commission or committee exercising authority over the Project, the

Redevelopment Area or the Redevelopment Plan, or any consultant hired by the City or the Developer with respect thereto, owns or controls, has owned or controlled or will own or control any interest, and no such person shall represent any person, as agent or otherwise, who owns or controls, has owned or controlled, or will own or control any interest, direct or indirect, in the Developer's business, the Property or any other property in the Redevelopment Area.

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

**8.13 Financial Statements.** The Developer shall obtain and provide to DPD Financial Statements for the Developer's fiscal year ended 2005 and each year thereafter for the Term of the Agreement. In addition, the Developer shall submit unaudited financial statements as soon as reasonably practical following the close of each fiscal year and for such other periods as DPD may request.

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

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

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

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

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

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

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

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

**8.18 Recording and Filing.** The Developer shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed against the Property on the date hereof in the conveyance and real property records of the county in which the Project is located. This Agreement shall be recorded prior to any mortgage made in connection with Lender Financing. If this Agreement is not recorded first, a subordination agreement in form and substance satisfactory to the City shall be executed and recorded with respect to such Lender Financing. The Developer shall pay all fees and charges incurred in connection with any such recording. Upon recording, the Developer shall immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

**8.19 [Omitted].**

**8.20 Affordable Housing Covenant.**

(a) The Developer agrees and covenants to the City that it shall meet the intent and purpose of the City's Affordable Housing Ordinance, Sec. 2-44-090 of the Municipal Code of Chicago, by undertaking the following:

(i) A total of 6 of the Facility's dwelling units (which number is at least 20% of the dwelling units comprising the Project) will be or have been sold by Developer at initial base purchase prices not greater than those shown in the table below (which prices [**TO BE UPDATED AT CLOSING**] have already been approved by the City's Department of Housing) to buyers whose annual income does not exceed 100% of the median income of the correspondingly-sized household in the City as determined from time to time by the City's Department of Housing ("Affordable Units"):

Number of Units	Unit	Configuration	Affordable Initial Sale Price
4	_____	2 BR 850 sq. ft.)	\$157,250
2	_____	2 BR 900 sq. ft.)	\$160,200

(ii) it will ensure that a recapture mortgage running in favor of the City, which instrument includes verbatim the text set forth in the model recapture mortgage form set forth in Exhibit S hereto, is recorded in the Office of the Cook County Recorder of Deeds against each Affordable Unit at the time of the Developer's initial sale of each such unit; and

(iii) it will ensure that a photocopy of each of the 6 recorded recapture mortgages is provided to DPD promptly upon the closing of each initial sale of each Affordable Unit.

(b) The proposed Unit Sale Agreement shall include an executed certification from the purchaser or proposed purchasers that it intends to reside in the condominium unit as its primary residence and is purchasing the unit without an intent to resell, which certification Developer, by its delivery to the City, represents and warrants to its knowledge, and to the knowledge of the Project broker or agent, and their respective representatives, in their good faith to be a true and accurate certification.

(c) The Developer acknowledges and agrees that any default under this Section 8.20, in addition to triggering an Event of Default under this Agreement, will also be an event of default under the City's Affordable Housing Ordinance, Sec. 2-44-090 of the Municipal Code of Chicago, and may result in the City's assessment of Affordable Housing Opportunity Fund fees (as defined in that ordinance) of \$100,000 per Affordable Unit not completed as set forth herein and termination or suspension of payments under this Agreement, included but not limited to TIF-Funded Interest Costs and payments under the City Note.

(d) The covenants set forth in this Section 8.20 shall run with the land and be binding upon any transferee.

**8.21 Condominium form of Ownership.** The Developer shall submit the residential portion of the Facility to the condominium form of ownership as contemplated under the City of Chicago Condominium Ordinance, passed December 21, 1977, amending the municipal Code of Chicago by adding Chapter 100.2 thereto, currently numbered Chapter 12-72 (the "Condominium Ordinance") and shall market, sell and convey the residential units in the Facility in compliance with the Condominium Ordinance and the Illinois Condominium Act and the provisions of this Agreement.

**8.22 Public Benefits Program.** [Omitted].

**8.23 Job Readiness Program.** [Omitted].

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

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

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

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

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

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

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

religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

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

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

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

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

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

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

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

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

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

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

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

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

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

When work at the Project is completed, in the event that the City has determined that the Developer has failed to ensure the fulfillment of the requirement of this Section concerning the worker hours performed by actual Chicago residents or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Section. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1 percent (0.0005) of the aggregate hard construction costs set forth in the Project Budget (the product of .0005 x such aggregate hard construction costs) (as the same shall be evidenced by approved contract value for the actual contracts) shall be surrendered by the Developer to the City in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject

the Developer, the General Contractor and/or the subcontractors to prosecution. **Any retainage to cover contract performance that may become due to the Developer pursuant to Section 2-92-250 of the Municipal Code of Chicago may be withheld by the City pending the Chief Procurement Officer's determination as to whether the Developer must surrender damages as provided in this paragraph.**

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

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

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

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

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

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

(c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code of Chicago, the Developer's MBE/WBE commitment may be achieved in part by the Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by the Developer) or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of (i) the MBE



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

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

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

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

(g) Prior to the commencement of the Project, the Developer shall be required to meet with the City's monitoring staff with regard to the Developer's compliance with its obligations under this Section 10.03. The General Contractor and all major subcontractors shall be required to attend this pre-construction meeting. During said meeting, the Developer shall demonstrate to the City's monitoring staff its plan to achieve its obligations under this Section 10.03, the sufficiency of which shall be approved by the City's monitoring staff. During the Project, the Developer shall submit the documentation required by this Section 10.03 to the City's monitoring staff, including the following:

(i) subcontractor's activity report; (ii) contractor's certification concerning labor standards and prevailing wage requirements; (iii) contractor letter of understanding; (iv) monthly utilization report; (v) authorization for payroll agent; (vi) certified payroll; (vii) evidence that MBE/WBE contractor associations have been informed of the Project via written notice and hearings; and (viii) evidence of compliance with job creation/job retention requirements. Failure to submit such documentation on a timely basis, or a determination by the City's monitoring staff, upon analysis of the documentation, that the Developer is not complying with its obligations under this Section 10.03, shall, upon the delivery of written notice to the Developer, be deemed an Event of Default. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to the Developer to halt the Project, (2) withhold any further payment of any City Funds to the Developer or the General Contractor, or (3) seek any other remedies against the Developer available at law or in equity.

## **SECTION 11. ENVIRONMENTAL MATTERS**

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

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

## **SECTION 12. INSURANCE**

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

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

(i) Workers Compensation and Employers Liability Insurance

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

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

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

(b) Construction

(i) Workers Compensation and Employers Liability Insurance

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

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

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

(iii) Automobile Liability Insurance (Primary and Umbrella)

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

(iv) Railroad Protective Liability Insurance

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

(v) Builders Risk Insurance

When the Contractor undertakes any construction, including improvements, betterments, and/or repairs, the Contractor shall provide, or cause to be provided All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the permanent facility. Coverages shall include but are not limited to the following: collapse, boiler and machinery if applicable. The City of Chicago shall be named as an additional insured and loss payee.

(vi) Professional Liability

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

(vii) Valuable Papers Insurance

When any plans, designs, drawings, specifications and documents are produced or used under this Agreement, Valuable Papers Insurance shall be

maintained in an amount to insure against any loss whatsoever, and has limits sufficient to pay for the re-creations and reconstruction of such records.

(viii) Contractor's Pollution Liability

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

(c) Term of the Agreement

- (i) Prior to the execution and delivery of this Agreement and during construction of the Project, All Risk Property Insurance in the amount of the full replacement value of the Property. The City of Chicago is to be named an additional insured on a primary, non-contributory basis.
- (ii) Post-construction, throughout the Term of the Agreement, All Risk Property Insurance, including improvements and betterments in the amount of full replacement value of the Property. Coverage extensions shall include business interruption/loss of rents, flood and boiler and machinery, if applicable. The City of Chicago is to be named an additional insured on a primary, non-contributory basis.

(d) Other Requirements

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

violation of the Agreement, and the City retains the right to terminate this Agreement until proper evidence of insurance is provided.

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

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

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

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

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

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

The Developer shall require the General Contractor, and all subcontractors to provide the insurance required herein or Developer may provide the coverages for the General Contractor, or subcontractors. All General Contractors and subcontractors shall be subject to the same requirements (Section (d)) of Developer unless otherwise specified herein.

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

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

## SECTION 13. INDEMNIFICATION

**13.01 General Indemnity.** Developer agrees to indemnify, pay, defend and hold the City, and its elected and appointed officials, employees, agents and affiliates (individually an “**Indemnitee**,” and collectively the “**Indemnitees**”) harmless from and against, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and

disbursements of any kind or nature whatsoever (and including without limitation, the reasonable fees and disbursements of counsel for such Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnities shall be designated a party thereto), that may be imposed on, suffered, incurred by or asserted against the Indemnitees in any manner relating or arising out of:

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

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

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

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

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

## SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT

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

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

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

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

- (a) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under this Agreement or any related agreement, including but not limited to the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under this Agreement (including the failure to comply with the Affordable Units covenants set forth in Section 8.20) or any related agreement;
- (b) the failure of the Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under any other agreement with any person or entity if such failure may have a material adverse effect on the Developer's business, property, assets, operations or condition, financial or otherwise;
- (c) the making or furnishing by the Developer to the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any material respect;
- (d) except as otherwise permitted hereunder, the creation (whether voluntary or involuntary) of, or any attempt to create, any lien or other encumbrance upon the Property, including any fixtures now or hereafter attached thereto, other than the Permitted Liens, or the making or any attempt to make any levy, seizure or attachment thereof;
- (e) the commencement of any proceedings in bankruptcy by or against the Developer or for the liquidation or reorganization of the Developer, or alleging that the Developer is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of the Developer's debts, whether under the United States Bankruptcy Code or under any other state or federal law, now or hereafter existing for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving the Developer; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;
- (f) the appointment of a receiver or trustee for the Developer, for any substantial part of the Developer's assets or the institution of any proceedings for the dissolution, or the full or partial



liquidation, or the merger or consolidation, of the Developer; provided, however, that if such appointment or commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such appointment is not revoked or such proceedings are not dismissed within sixty (60) days after the commencement thereof;

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

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

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

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

(k) prior to the issuance of the Certificate, the sale or transfer of all of the ownership interests of the Developer, except for the sale of individual residential condominium units, without the prior written consent of the City.

For purposes of **Sections 15.01(i)** and **15.01(j)** hereof, a person with a material interest in the Developer shall be one owning in excess of **[ten (10%)]** of the Developer's issued and outstanding shares of stock.

## **15.02 Remedies.**

(a) Upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements, and may suspend disbursement of City Funds. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to injunctive relief or the specific performance of the agreements contained herein, including but not limited to offsetting liquidated damage amounts owed to the City against the principal amount outstanding under the Note and pay back to the City all of the City Funds that the Developer has received upon the occurrence of a default.

(b) Notwithstanding anything to the contrary in the provisions set forth in Section 15.02(a) or Section 15.03, (i) in the event of the Developer's first default of the Affordability Covenants, the City shall suspend payments on the Note until the Developer, cures such default; (ii) in the event of the Developer's second default of the Affordability Covenants, the City shall suspend payments on the Note and interest will cease to accrue until the Developer cures the default; (iii) and

in the event of the Developer's third default of the Affordability Covenants, the City, at its election may terminate the Redevelopment Agreement, in which event the Note shall be deemed canceled and the City shall have no further obligation to make payments under the Note. Except with respect to Developer's third default of the Affordability Covenants, (which shall have no curative period) a default of the Affordability Covenants shall be deemed a default of a monetary covenant which Developer shall be required to cure within ten (10) days of the receipt of written notice from the City specifying that it has failed to perform such monetary covenant as set forth in Section 15.03.

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

## SECTION 16. MORTGAGING OF THE PROJECT

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

(a) In the event that a mortgagee or any other party shall succeed to the Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under a New Mortgage (other than a Permitted Mortgage), whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with **Section 18.15** hereof, the City may, but shall not be obligated to, attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement and, unless so recognized by the City as the successor in interest, such party shall be

entitled to no rights or benefits under this Agreement, but such party shall be bound by those provisions of this Agreement that are covenants expressly running with the land.

(b) In the event that any mortgagee shall succeed to the Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under an Existing Mortgage or a Permitted Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with **Section 18.15** hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "the Developer" hereunder; provided, however, that, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of the Developer's interest under this Agreement, such party has no liability under this Agreement for any Event of Default of the Developer which accrued prior to the time such party succeeded to the interest of the Developer under this Agreement, in which case the Developer shall be solely responsible. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of the Developer's interest hereunder, such party shall be entitled to no rights and benefits under this Agreement, and such party shall be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land; provided, however, no mortgagee or other transferee will be entitled to receipt of City Funds without the express prior written consent of the City. Pursuant to a separate letter and the terms and provisions set forth therein, the City has consented to assignment of the City Note to Broadway Bank.

(c) Prior to the issuance by the City to the Developer of a Certificate pursuant to **Section 7** hereof, no New Mortgage shall be executed with respect to the Property or any portion thereof without the prior written consent of the Commissioner of DPD. After issuance of the Certificate prior written consent is not required if Mortgagee accepts an assignment of the Agreement.

## SECTION 17. NOTICE

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

If to the City:

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

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

If to the Developer: ASAT, Inc.  
1516 W. Farwell Avenue  
Chicago, Illinois 60626

With Copies To: Bernard Citron  
Schain, Burney, Ross & Citron, Ltd.  
222 North LaSalle Street, Suite 1910  
Chicago, Illinois 60601-1102

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

## SECTION 18. MISCELLANEOUS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**18.15 Assignment.** The Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City. Any successor in interest to the Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to **Section 8.24 (Survival of Covenants)** hereof, for the Term of the Agreement. The Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

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

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

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

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

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

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

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

**18.23 Waste.** The Developer, in accordance with Section 11-4-1600(e) of the Municipal Code of Chicago, 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 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 and 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, Developer, and Developer Contractors' and Subcontractors' 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 designation of the Chief Procurement Officer. Such breach and default entitles the City to all remedies under this Agreement, at law or in equity. This section does not limit the Developer, and/or its Contractors' 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 ground for the termination of this Agreement, and may further affect the Developer's eligibility for future contract awards with the City.

**18.24 Prohibition on Certain Contributions - Mayoral Executive Order No. 05-1.**

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

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

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



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

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

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

For purposes of this provision:

“Bundle” means to collect contributions from more than one source which are then delivered by one person to the Mayor or to his political fund-raising committee.

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

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

Individuals are “Domestic Partners” if they satisfy the following criteria:

- (A) they are each other's sole domestic partner, responsible for each other's common welfare; and
- (B) neither party is married; and
- (C) the partners are not related by blood closer than would bar marriage in the State of Illinois; and
- (D) each partner is at least 18 years of age, and the partners are the same sex, and the partners reside at the same residence; and
- (E) two of the following four conditions exist for the partners:
  - 1. The partners have been residing together for at least 12 months.
  - 2. The partners have common or joint ownership of a residence.
  - 3. The partners have at least two of the following arrangements:

- a. joint ownership of a motor vehicle;
- b. a joint credit account;
- c. a joint checking account;
- d. a lease for a residence identifying both domestic partners as tenants.

4. Each partner identifies the other partner as a primary beneficiary in a will.

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

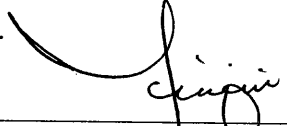
[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

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

**DEVELOPER**


By: ASAT, Inc.

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

  
PRESIDENT

**CITY OF CHICAGO**

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

Kathleen Nelson 

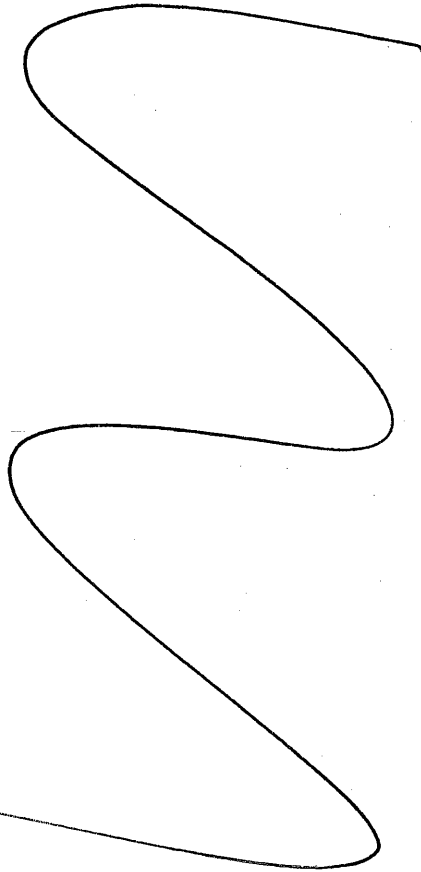
First Deputy Commissioner, Department  
of Planning and Development





**EXHIBIT A**  
**REDEVELOPMENT AREA**

See Attached



**EXHIBIT A**  
to Redevelopment Agreement

*Legal Description.*

That part of the south half of Sections 35 and 36, Township 41 North, Range 13 East of the Third Principal Meridian, the south half of Section 31, Township 41 North, Range 14 East of the Third Principal Meridian, that part of Sections 1, 2 and 12, Township 40 North, Range 13 East of the Third Principal Meridian, and that part of Sections 6 and 7, Township 40 North, Range 14 East of the Third Principal Meridian all located in the City of Chicago, Cook County, State of Illinois, described as follows:

beginning at the intersection of the west line of North Kedzie Avenue and the north line of West Devon Avenue, said west line of North Kedzie Avenue being also the west limits of the City of Chicago; thence north along said west line of North Kedzie Avenue to the westerly extension of the south line of Lot 85 in Reinberg's North Channel Subdivision in the southwest quarter of the fractional southwest quarter of Section 36, Township 41 North, Range 13 East of the Third Principal Meridian, being Document Number 8630401, said south line of Lot 85 being also the north line of the alley north of West Devon Avenue; thence east along said north line of the alley north of West Devon Avenue to the west line of North Rockwell Street; thence north along said west line of North Rockwell Street to the westerly extension of the north line of Lot 11 of Block 5 of Wm. L. Wallen's Edgewater Golf Club Addition to Rogers Park, being a subdivision of the southeast quarter of the southeast quarter of Section 36, Township 41 North, Range 13 East of the Third Principal Meridian, being Document Number 5305842; thence east along said north line of Lot 11 of Block 5 and its westerly extension to the east line of said Lot 11, said east line being also the west line of the alley east of North Rockwell Street in said Block 5; thence south along said west line of the alley east of North Rockwell Street to the south line of said Lot 11, said south line being also the north line of the alley north of West Devon Avenue; thence east along said north line of the alley north of West Devon Avenue to the west line of North Campbell Avenue; thence north along said west line of North Campbell Avenue to the westerly extension of the north line of Lot

11, Block 7 of said Wm. L. Wallen's Edgewater Golf Club Addition to Rogers Park; thence east along said north line of Lot 11, Block 7 and its westerly extension to the east line of said Lot 11, being also the west line of the alley east of North Campbell Avenue in said Block 7; thence south along said west line of the alley east of North Campbell Avenue to the westerly extension of the north line of the south 50 feet of Lot 6 of aforesaid Block 7; thence east along said north line of the south 50 feet of Lot 6 and its westerly extension to the west line of North Artesian Avenue; thence north along said west line of North Artesian Avenue to the westerly extension of the north line of Lot 11, Block 8 of aforesaid Wm. L. Wallen's Edgewater Golf Club Addition to Rogers Park; thence east along said north line of Lot 11, Block 8 and its westerly extension to the east line of said Lot 11, said east line of Lot 11, being also the west line of the alley east of North Artesian Avenue in said Block 8; thence north along said west line of said alley east of North Artesian Avenue to the north line of West Arthur Avenue; thence east along said north line of West Arthur Avenue to the northerly extension of the west line of Lot 77 of Arthur Avenue Subdivision of 26 acres, being Document Number 7366967 said west line of Lot 77 being also the east line of the alley east of North Western Avenue; thence south along said east line of the alley east of North Western Avenue to the south line of Lot 7, Block 8 of Devon/Western Addition to Rogers Park, being a resubdivision of Lots 1 to 24 both inclusive in Margaret Faber's Subdivision of the south 6 chains of the southwest quarter of Section 31, Township 41 North, Range 14 East of the Third Principal Meridian, being Document Number 5525116, said south line of Lot 7, Block 8 being also the north line of the alley north of West Devon Avenue; thence east along said north line of the alley north of West Devon Avenue and its easterly extension to the east line of North Claremont Avenue; thence south along said east line of North Claremont Avenue to the south line of Lot 19 in Block 7 of said Devon/Western Addition; said south line of Lot 19 being also the north line of the alley north of West Devon Avenue; thence east along said north line of the alley north of West Devon Avenue to the east line of North Damen Avenue; thence south along said east line of North Damen Avenue to the south line of Lot 2 of John Becker's Addition to Chicago being a subdivision in the southwest quarter of the southeast quarter of Section 31, Township 41 North, Range 14 East of the Third Principal Meridian, being Document Number 4020116; thence east along said south line of Lot 2 and its easterly extension to the east line of North Ridge Boulevard; thence northwesterly along said east line of North Ridge Boulevard to the north line of Lot 3 of D. Schreiber's Subdivision of that part of Lots 4 and 5 lying between the Chicago and Northwestern Railway and Ridge Road except the north 50 feet of Lot 4 of Circuit Court Partition of the south half of the south



half of the southeast quarter of Section 31, Township 41 North, Range 14 East of the Third Principal Meridian being Document Number 4033053; thence east along said north line of Lot 3 to the west line of the alley east of North Ridge Boulevard dedicated on Document Number 4819734; thence northwesterly along said west line of the alley east of North Ridge Boulevard to the westerly extension of the north line of Lot 6 of aforesaid D. Schreiber's Subdivision; thence east along said north line of Lot 6 and its westerly extension to the east line of said Lot 6; thence north along the northerly extension of said east line of Lot 6 of aforesaid D. Schreiber's Subdivision to a line 371 feet north of and parallel with the north line of West Devon Avenue; thence east along said line 371 feet north of and parallel with the north line of West Devon Avenue to the west line of the Chicago and Northwestern Railway; thence south along said west line of the Chicago and Northwestern Railway to the south line of the southeast quarter of Section 31, Township 41 North, Range 14 East of the Third Principal Meridian; thence east along said south line of the southeast quarter of Section 31 to the east line of the Chicago and Northwestern Railway; thence north along said east line of the Chicago and Northwestern Railway to the westerly extension of the south line of Lot 20 of Schreiber's Subdivision of that part of Lots 2, 3, 4 and 5 in Circuit Court Partition of the south half of the southeast quarter of Section 31, Township 41 North, Range 14 East of the Third Principal Meridian, lying between the Chicago and Northwestern right-of-way and Clark Street, being Document Number 2593751, said south line of Lot 20 being also the north line of the alley north of West Devon Avenue; thence east along said north line of the alley north of West Devon Avenue to the northerly extension of the east line of Lot 38 of aforesaid Schreiber's Subdivision, said east line of Lot 38 being also the west line of the alley west of North Clark Street; thence southeasterly along said west line of the alley west of North Clark Street to the north line of West Devon Avenue; thence south to the northeast corner of Lot 1 of the resubdivision of Lots 2, 3 and 4 of Block 1 in Highridge, being Document Number 3304886, the east line of said Lot 1 being also the west line of the alley west of North Clark Avenue; thence south along said west line of the alley west of North Clark Street to the easterly extension of the north line of Lot 5, Block 1 of Highridge being a subdivision in the north half of the northeast quarter of Section 6, Township 40 North, Range 14 East of the Third Principal Meridian, being Document Number 807546; thence west along said north line of Lot 5, Block 1 of aforesaid Highridge Subdivision to the east line of North Paulina Street; thence south along said east line of North Paulina Street to the east extension of the north line of Lot 8, Block 2 of aforesaid Highridge Subdivision, said north line of Lot 8 being also the south line of the alley south of West Devon

Avenue; thence west along said south line of the alley south of West Devon Avenue to the east line of North Ravenswood Avenue; thence south along said east line of North Ravenswood Avenue to a line 284.20 feet south of and parallel with the south line of West Devon Avenue; thence west along said line 284.20 feet south of and parallel with the south line of West Devon Avenue to the west line of the Chicago and Northwest Railway; thence north along said west line of the Chicago and Northwest Railway to the easterly extension of the north line of Lot 9, Block 4 of Highridge, being a subdivision in the north half of the northeast quarter of Section 6, Township 40 North, Range 14 East of the Third Principal Meridian, being Document Number 807546, said north line of Lot 9 also being the south line of the alley south of West Devon Avenue; thence west along said south line of the alley south of West Devon Avenue to the northeasterly line of North Ridge Avenue; thence northwesterly along the northeasterly line of said North Ridge Avenue to the south line of Lot 5, Block 4 of aforesaid Highridge Subdivision; thence west along the west extension of said south line of Lot 5, Block 4 to the southwesterly line of North Ridge Avenue; thence northwesterly along said southwesterly line of North Ridge Avenue to the south line of West Devon Avenue; thence west along the south line of West Devon Avenue to the east line of North Hoyne Avenue; thence south along said east line of North Hoyne Avenue to the easterly extension of the north line of Lots 12 through 20, inclusive, of Block 1 of Weitor's Devon-Leavitt Addition to North Edgewater in the north half of the northwest quarter of Section 6, Township 40 North, Range 14 East of the Third Principal Meridian, being Document Number 9230771, said north line of Lots 12 through 20 inclusive, being also the south line of the alley south of West Devon Avenue; thence west along said south line of the alley south of West Devon Avenue and its easterly extension to the west line of Lot 35 of Devon Ridge, being a resubdivision of the vacated Block 5 in Wm. L. Wallen's Resubdivision of the vacated Wm. L. Wallen's Faber Addition to North Edgewater, being a subdivision in the northwest quarter of the northwest quarter of Section 6, Township 40 North, Range 14 East of the Third Principal Meridian, being Document Number 6163580, said west line of Lot 35 being also the east line of the alley east of North Western Avenue; thence south along said east line of the alley east of North Western Avenue to the north line of West Glenlake Avenue; thence south to the northwest corner of Lot 19 of Read and Reynold's North Western Avenue Subdivision of the south half of the west half of the west half of the southwest quarter of the northwest quarter of Section 6, Township 40 North, Range 14 East of the Third Principal Meridian, being Document Number 172190 T.S., the west line of said Lot 19 being also the east line of the alley east of North Western Avenue; thence south along said east line of the alley east of North Western Avenue to the north line of West Peterson Avenue; thence east along

said north line of West Peterson Avenue to a line 206 feet east of and parallel with the east line of North Western Avenue; thence south along said line 206 feet east of and parallel with the east line of North Western Avenue to the south line of West Peterson Avenue; thence continuing south 200 feet along said line 206 feet east of and parallel with the east line of North Western Avenue to a line 200 feet south of and parallel with the south line of West Peterson Avenue; thence east 194 feet along said line 200 feet south of and parallel with the south line of West Peterson Avenue to a line 400 feet east of and parallel with the east line of North Western Avenue; thence south 900 feet along said line 400 feet east of and parallel with the east line of North Western Avenue to a line 1,100 feet south of and parallel with the south line of West Peterson Avenue; thence east 200 feet along said line 1,100 feet south of and parallel with the south line of West Peterson Avenue to a line 600 feet east of and parallel with the east line of North Western Avenue; thence south 800 feet along said line 600 feet east of and parallel with the east line of North Western Avenue to a line 1,900 feet south of and parallel with the south line of West Peterson Avenue; thence west 100 feet along said line 1,900 feet south of and parallel with the south line of West Peterson Avenue to a line 500 feet east of and parallel with the east line of North Western Avenue; thence south 400 feet along said line 500 feet east of and parallel with the east line of North Western Avenue to a line 2,300 feet south of and parallel with the south line of West Peterson Avenue; thence west 500 feet along said line 2,300 feet south of and parallel with the south line of West Peterson Avenue to the east line of North Western Avenue; thence south along said east line of North Western Avenue to a point on the east line of said North Western Avenue and north 302 feet measured along said east line from the south line of the northwest quarter of the northwest quarter of Section 6, Township 40 North, Range 14 East of the Third Principal Meridian; thence east 630 feet along a line perpendicular to the east line of North Western Avenue; thence south 140 feet along a line parallel with the east line of North Western Avenue; thence east 165 feet along a line perpendicular to the east line of North Western Avenue; thence south 68 feet along a line parallel with the east line of North Western Avenue; thence east 398.51 feet on an angle to the right of 89 degrees, 21 minutes, 30 seconds from the last described course; thence southeasterly 141.48 feet on an angle to the right of 241 degrees, 48 minutes, 29 seconds from the last described course to the northwesterly right-of-way line of Bowmanville Avenue; thence southeasterly along a line perpendicular to said northwest right-of-way of Bowmanville Avenue to the southeasterly right-of-way of said Bowmanville Avenue; thence southwesterly along said southeasterly line of North Bowmanville Avenue and its southeasterly extension to the south line of West Berwyn Avenue;

thence west along said south line of West Berwyn Avenue to the west line of Lot 22 of O. B. Conklin's Subdivision of part of the west half of the southwest quarter of the northwest quarter of Section 7, Township 40 North, Range 14 East of the Third Principal Meridian, being Document Number 3623355, said west line of Lot 22 being also the east line of the alley east of North Western Avenue; thence south along said east line of the alley east of North Western Avenue and its southerly extension to the south line of West Farragut Avenue; thence west along said south line of West Farragut Avenue to the west line of Lot 56 of aforesaid O. B. Conklin's Subdivision; thence south along said west line of Lot 56 of aforesaid O. B. Conklin's Subdivision to the south line of said Lot 56, said south line of Lot 56 being also the north line of the alley north of West Foster Avenue; thence east along said north line of the alley north of West Foster Avenue to the northerly extension of the west line of Lot 64 of aforesaid O. B. Conklin's Subdivision; thence south along said west line of Lot 64 of aforesaid O. B. Conklin's Subdivision and its southerly extension to the south line of West Foster Avenue; thence west along said south line of West Foster Avenue to the southerly extension of the west line of Lot 6 of Budlongs Subdivision of the south half of the southeast quarter of the southeast quarter of the northeast quarter of Section 12, Township 40 North, Range 13 East of the Third Principal Meridian, being Document Number 2066417; thence north along said west line of Lot 6 and its northerly extension to the south line of Lot 9 of Greenhoff's Resubdivision of Berwyn/Western Subdivision, a subdivision of part of the southeast quarter of the southeast quarter of the north east quarter of Section 12, Township 40 North, Range 13 East of the Third Principal Meridian, being Document Number 14367459, said south line of Lot 9 being also the north line of the alley north of West Foster Avenue; thence east along said north line of the alley north of West Foster Avenue to the west line of Lot 15 of aforesaid Greenhoff's Resubdivision of Berwyn/Western Subdivision; thence north along said west line of Lot 15 of aforesaid Greenhoff's Resubdivision of Berwyn/Western Subdivision and its northerly extension to the north line of West Farragut Avenue; thence east along said north line of West Farragut Avenue to the west line of Lot 14 of aforesaid Greenhoff's Resubdivision of Berwyn/Western Subdivision; thence north along said west line of Lot 14 of aforesaid Greenhoff's Resubdivision of Berwyn/Western Subdivision to the northwest corner of said Lot 14; thence north to the southwest corner of Lot 13 of aforesaid Greenhoff's Resubdivision of Berwyn/Western Subdivision; thence north along the west line of said Lot 13 of aforesaid Greenhoff's Resubdivision of Berwyn/Western Subdivision to the south line of West Berwyn Avenue; thence west along said south line of West Berwyn Avenue to the southerly extension of the west line of the east 187 feet

measured along the south line of Lot 7 of Assessor's Division of the southeast quarter of the northeast quarter of the northeast quarter and the northeast quarter of the southeast quarter of the northeast quarter of Section 12, Township 40 North, Range 13 East of the Third Principal Meridian, recorded September 21, 1869 in book 170, page 138; thence north along said west line of and its southerly extension of said 187 feet of Lot 7 measured along its south line of aforesaid Assessor's Division recorded September 21, 1869 in book 170, page 138 to the south line of Lot 6 of aforesaid Assessor's Division; thence west along said south line of Lot 6 of aforesaid Assessor's Division and its westerly extension to the east line of Lot 7 of Herbert M. Rosenthal and Roy M. Schoenbrod's Budlong Woods Addition, being a resubdivision of Lots 8 to 13 both, inclusive, in Assessor's Division of the southeast quarter of the northeast quarter of the northeast quarter, and the northeast quarter of the southeast quarter of the northeast quarter of Section 12, Township 40 North, Range 13 East of the Third Principal Meridian together with certain strips of land adjoining said Lots 8 to 13 in Assessor's Division aforesaid being Document Number 15659960, said east line of Lot 7 being also the west line of the alley west of North Western Avenue; thence north along said west line of the alley west of North Western Avenue to the westerly extension of the north line of Lot 4 of aforesaid Assessor's Division, recorded September 21, 1869 in book 170, page 138 said north line of Lot 4 being also the south line of West Balmoral Avenue between North Artesian Avenue and North Western Avenue; thence east along said north line of Lot 4 and its westerly extension to the southerly extension of the east line of the west 156 feet of Lots 1 through 3 inclusive in the Assessors Division of the southeast quarter of the northeast quarter of the northeast quarter and the northeast quarter of the southeast quarter of the northeast quarter of Section 12, Township 40 North, Range 13 East of the Third Principal Meridian, recorded September 21, 1869 in book 170, page 138; thence north along said east line of the west 156 feet of Lots 1 through 3, inclusive, of aforesaid Assessors Division to the south line of West Catalpa Avenue; thence west along said south line of West Catalpa Avenue to the west line of North Artesian Avenue; thence north along said west line of North Artesian Avenue to the north line of West Catalpa Avenue; thence east along said north line of West Catalpa Avenue to the east line of Lot 22 in Block 6 of Fred W. Brummel and Company's Lincoln Bryn Mawr/Western Subdivision, being a subdivision of the northeast quarter of the northeast quarter of the northeast quarter of Section 12, and that part easterly of Lincoln Avenue of the west half of the east half of the northeast quarter of Section 12 (excepting therefrom that part thereof lying south of a line 200 feet north of the north line of Berwyn Avenue) all in Township 40 North, Range 13 East of the Third Principal Meridian (except streets heretofore dedicated) being document Number 7905451, said east line of Lot 22 in Block 6 being also the west line of the alley west of North Western Avenue; thence north along said west line of the alley west of North Western Avenue and its northerly extension to the south line of Lots 1 through 9 inclusive in Block 6 of aforesaid Fred W. Brummel and Company's

Lincoln Bryn Mawr/Western Subdivision, said south line of Lots 1 through 9 being also the north line of the alley south of West Bryn Mawr Avenue; thence west along said north line of the alley south of West Bryn Mawr Avenue to the west line of the east half of Lot 6 in Block 6 of aforesaid Fred W. Brummel and Company's Lincoln Bryn Mawr/Western Subdivision; thence north along said west line of the east half of Lot 6 in Block 6 of aforesaid Fred W. Brummel and Company's Lincoln Bryn Mawr/Western Subdivision to the south line of West Bryn Mawr Avenue; thence east along said south line of West Bryn Mawr Avenue to the southerly extension of the east line of Lot 21 in Block 24 of W.F. Kaiser and Company's "Arcadia Terrace", being a subdivision of the north half of the southeast quarter (except the west 33 feet thereof), and the southeast quarter of the southeast quarter of Section 1, Township 40 North, Range 13 East of the Third Principal Meridian, being Document Number 5414538, said east line of Lot 21 in Block 24 being also the west line of the alley west of North Western Avenue; thence north along said west line of the alley west of North Western Avenue to the north line of Lot 30 of E.C. Paschke's Western/Peterson Subdivision in the northeast quarter of Section 1, Township 40 North, Range 13 East of the Third Principal Meridian, being Document Number 9191017; thence west along said north line of Lot 30 of aforesaid E.C. Paschke's Western/Peterson Subdivision and its westerly extension to the west line of North Artesian Avenue; thence north along said west line of North Artesian Avenue to the north line of West Glenlake Avenue; thence east along said north line of West Glenlake Avenue to the east line of Lot 9 in Block 1 of T.J. Gracy's Third Green Briar Addition to North Edgewater in the southeast quarter of the northeast quarter of Section 1, Township 40 North, Range 13 East of the Third Principal Meridian, being Document Number 7087512, said east line of Lot 9 in Block 1 being also the west line of the alley west of North Western Avenue thence north along said west line of the alley west of North Western Avenue to the south line of the alley south of West Devon Avenue, dedicated in Document Number 8254021; thence west along said south line of the dedicated alley south of West Devon Avenue to the east line of North Artesian Avenue; thence south along said east line of North Artesian Avenue to the easterly extension of the north line of Lot 5 of Devon/Artesian Subdivision in the north east quarter of Section 1, Township 40 North, Range 13 East of the Third Principal Meridian, being Document Number 165841 T.S., said north line of Lot 5 aforesaid, being also the south line of the alley south of West Devon Avenue; thence west along said south line of the alley south of West Devon Avenue to the east line of North Campbell Avenue; thence south along said east line of North Campbell Avenue to the easterly extension of the south line of the alley opened by Resolution of the City Council passed September 25, 1958 (58-25) in Block 1 of Ellis and Morris' Second Addition to North Edgewater, being a Subdivision of the north half of the east half of the west half of the east half of the northeast quarter of Section 1, Township 40 North, Range 13 East of the Third Principal Meridian; thence west along said south line of the alley opened by resolution south of West Devon Avenue and its westerly extension to

the west line of North Maplewood Avenue; thence north along said west line of North Maplewood Avenue to the north line of Lot 34, Block 1 of Devon/Maplewood Addition to North Edgewater in the west half of the west half of the east half of the northeast quarter of Section 1, Township 40 North, Range 13 East of the Third Principal Meridian, being Document Number 6008097, said north line of Lot 34 being also the south line of the alley south of West Devon Avenue; thence west along said south line of the alley south of West Devon Avenue to the east line of North California Avenue; thence south along said east line of North California Avenue to the easterly extension of the north line of Lot 27, Block 1 of T.J. Grady's Sixth Green Briar Addition to North Edgewater in the northeast quarter of the northwest Quarter of Section 1, Township 40 North, Range 13 East of the Third Principal Meridian, being Document Number 7585379, said north line of Lot 27 also being the south line of the alley dedicated in Document Number 15703796; thence west along said south line of said dedicated alley and its westerly extension to the west line of North Mozart Street; thence north along said west line of North Mozart Street to the north line of Lot 32, Block 2 of aforesaid T.J. Grady's Sixth Green Briar Addition to North Edgewater, said north line of Lot 32 being also the south line of the alley south of West Devon Avenue; thence west along said south line of the alley south of West Devon Avenue to the west line of Lot 286 of Krenn and Datos' Devon/Kedzie Addition to North Edgewater, being a subdivision of the northwest quarter of the northwest quarter of Section 1, Township 40 North, Range 13 East of the Third Principal Meridian, being Document Number 8231543, said west line of Lot 286 being also the east line of the alley west of North Sacramento Avenue; thence south along said east line of the alley west of North Sacramento Avenue to the easterly extension of the south line of Lot 227 of aforesaid Krenn and Datos' Devon/Kedzie Addition to North Edgewater; thence west along said south line of Lot 227 and its westerly extension to the west line of North Whipple Street; thence north along said west line of North Whipple Street to the north line of Lot 224 of aforesaid Krenn and Datos Devon/Kedzie Addition to North Edgewater, said north line of Lot 224 also being the south line of the alley south of West Devon Avenue; thence west along said south line of the alley south of West Devon Avenue to the northwest corner of Lot 100 of aforesaid Krenn and Datos' Devon/Kedzie Addition to North Edgewater; thence westerly to the northeast corner of Lot 37 of aforesaid Krenn and Datos' Devon/Kedzie Addition to North Edgewater; thence west along the north line of said Lot 37 and its westerly extension to the west line of North Kedzie Avenue; thence north along said west line of North Kedzie Avenue to the centerline of West Devon Avenue, being also the south line of the southeast quarter of Section 35, Township 41 North, Range 13 East of the Third Principal Meridian; thence east along said south line of the southeast quarter of Section 35 to the east line of said southeast quarter of Section 35; thence north along said east line of the southeast quarter of Section 35 to the north line West Devon Avenue; thence west along said north line of West Devon Avenue to the point of beginning.

**EXHIBIT B**

**PROPERTY**

**PARCEL 1:**

LOTS 10 AND 11 IN BLOCK 5 IN WILLIAM L. WALLEN EDGEWATER'S GOLF CLUB ADDITION TO ROGER'S PARK, A SUBDIVISION IN THE SOUTHEAST 1/4 OF SECTION 36, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PINs: 10-36-428-033-8001  
10-36-428-033-8002  
Address: 6401 - 6415 N. Rockwell

**PARCEL 2:**

THE SOUTH 1/2 OF LOT 12 IN BLOCK 5 IN WILLIAM L. WALLEN EDGEWATER'S GOLF CLUB ADDITION TO ROGERS PARK, A SUBDIVISION IN THE SOUTH EAST 1/4 OF SECTION 36, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THEREFROM ANY PORTION OF SAID SOUTH 1/2 OF LOT 12 FALLING WITHIN THE NORTH 37.5 FEET OF SAID LOT 12) IN COOK COUNTY, ILLINOIS.

PINs: 10-36-428-009-000\*  
Address: 6425 N. Rockwell Avenue, Chicago, IL 60645

**PARCEL 3:**

THE VACATED 16 FOOT EAST-WEST ALLEY LYING NORTH OF THE NORTHERLY LINE OF LOTS 9 AND 10 AND SOUTH OF THE SOUTHERLY LINE OF LOT 11, EAST OF THE WESTERLY LINE OF LOT 11 EXTENDED TO THE SOUTH, AND WEST OF THE OF THE SOUTHERLY EXTENSION OF THE EAST LINE OF LOT 11 IN BLOCK 5 IN WILLIAM L. WALLEN EDGEWATER'S GOLF CLUB ADDITION TO ROGERS PARK, A SUBDIVISION IN THE SOUTHEAST 1/4 OF SECTION 36, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

\*Developer will have separate PINs assigned to the Property to identify property located within and beyond the TIF area.



**EXHIBIT C**

**TIF-FUNDED IMPROVEMENTS**

<u>Line Item</u>	<u>*Cost</u>
Interest Cost	\$1,871,982
Infrastructure Improvements (cul-de-sac)	300,000
Construction Interest	95,797
Site Preparation	1,187,800

[\*ESTIMATES: COSTS AND ALLOCATIONS SUBJECT TO DPD DETERMINATION AND DISCRETION WITHIN THE BELOW STATED TOTAL AMOUNT OF TIF-FUNDING]

TOTAL:

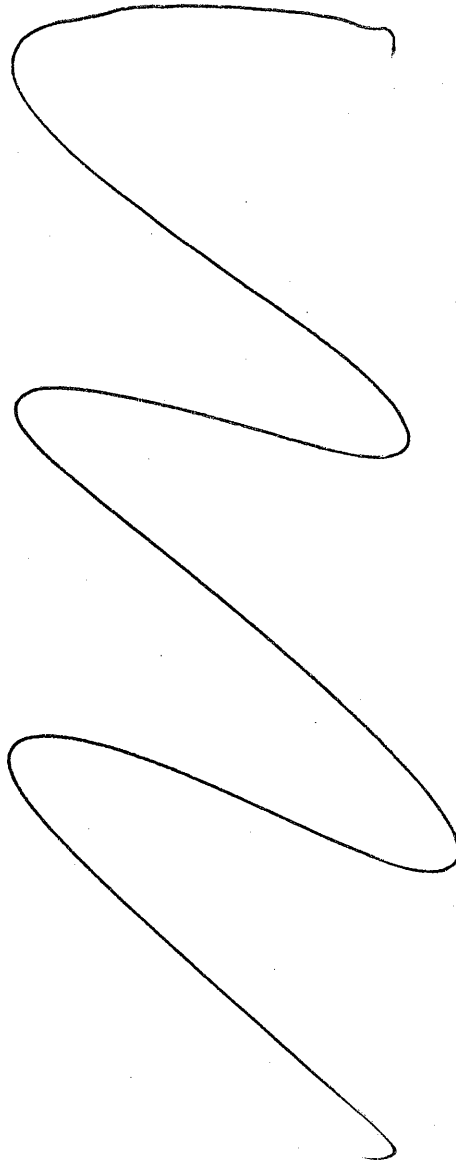
\$3,455,579

**Notwithstanding the above, TIF Funded Improvements shall include only the eligible portion of the Project Costs as determined by DPD as attributable and allocable to that portion of the Project within the Redevelopment Area.**

**EXHIBIT D**

**REDEVELOPMENT PLAN AND PROJECT**

See Attached



## EXHIBIT G

### PERMITTED LIENS

1. Liens or encumbrances against the Property:

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

2. Liens or encumbrances against the Developer or the Project, other than liens against the Property, if any: [To be completed by Developer's counsel, subject to City approval.]

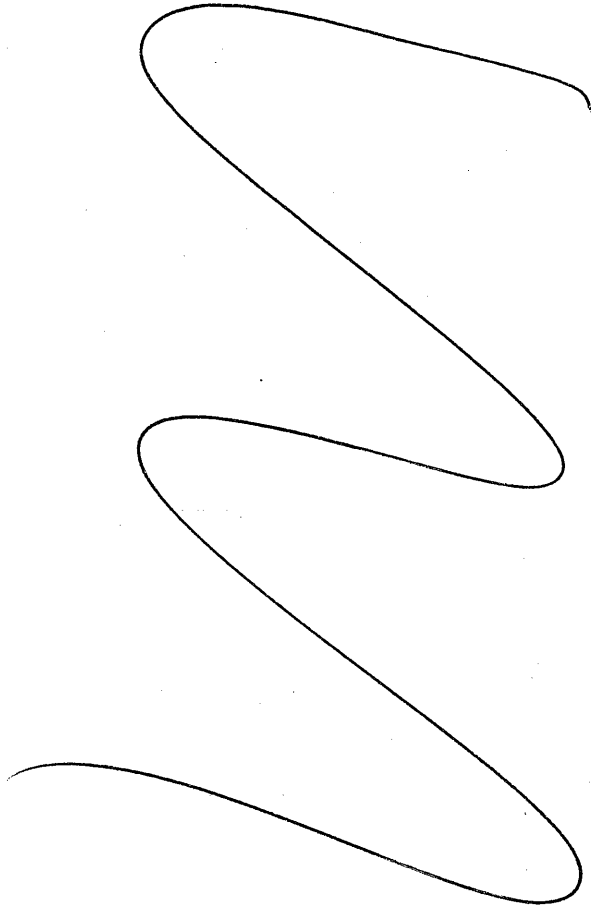
## EXHIBIT H-1

### PROJECT BUDGET

Site Improvements	\$ 1,015,000
Acquisition	1,530,000
Demolition	100,000
Environmental Remediation	40,000
Public Improvements	300,000
Retail Construction	1,380,000
Garage Construction	4,492,000
Condominium Construction	4,474,260
Contingency	234,000
Architectural/Engineering	480,000
Soil Borings and Civil Engineering	55,000
Insurance and Escrow	69,176
Surveys	21,000
Permits	63,176
Legal/Accounting	126,353
Development advertising	126,353
Developer Fee	442,234
Interim Interest	399,153
Loan Fees	238,497
Soft Cost contingency	379,058
<b>Total Uses:</b>	<b>\$15,965,260</b>

**EXHIBIT H-2**  
**MBE/WBE PROJECT BUDGET**

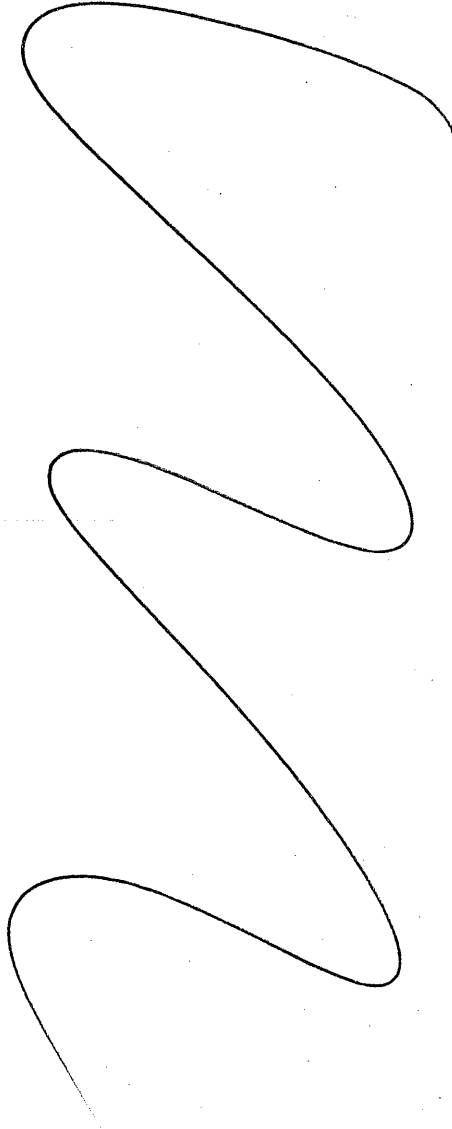
Hard Costs of Construction and related Soft Costs      \$12,236,260



**EXHIBIT I**

**APPROVED PRIOR EXPENDITURES**

[NONE]

A large, vertical, handwritten scribble or signature in black ink, consisting of several overlapping loops and curves, positioned in the center of the page.

## EXHIBIT J

### OPINION OF DEVELOPER'S COUNSEL

[To be retyped on the Developer's Counsel's letterhead]

City of Chicago  
121 North LaSalle Street  
Chicago, IL 60602

ATTENTION: Corporation Counsel

Ladies and Gentlemen:

We have acted as counsel to \_\_\_\_\_, an Illinois corporation \_\_\_\_\_ (the "**Developer**"), in connection with the purchase of certain land and the construction of certain facilities thereon located in the ASAT, Inc. 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) Asat, Inc. Redevelopment Agreement (the "**Agreement**") of even date herewith, executed by the Developer and the City of Chicago (the "**City**");
- [(b) the Escrow Agreement of even date herewith executed by the Developer and the City;]
- (c) [insert other documents including but not limited to documents related to purchase and financing of the Property and all lender financing related to the Project]; and
- (d) all other agreements, instruments and documents executed in connection with the foregoing.

In addition to the foregoing, we have examined

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

**EXHIBIT M**

FORM OF NOTE

REGISTERED  
NO. R-1

MAXIMUM AMOUNT  
\$1,187,800<sup>1</sup>

**UNITED STATES OF AMERICA  
STATE OF ILLINOIS  
COUNTY OF COOK  
CITY OF CHICAGO**

**TAX INCREMENT ALLOCATION REVENUE NOTE DEVON AND WESTERN  
REDEVELOPMENT PROJECT), TAXABLE SERIES A**

Registered Owner: ASAT, Inc.

Interest Rate: Not to exceed 9% per annum [to be determined at issuance of Certificate.] (Tied to 10 year Treasury Constant Maturities as published in the current Federal Reserve Statistical Release H-15 upon the Issuance Date plus, 275 Basis Points)

Maturity Date: \_\_\_\_\_, \_\_\_\_\_ [twenty years from  
issuance date]

**KNOW ALL PERSONS BY THESE PRESENTS**, that the City of Chicago, Cook County, Illinois (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns as hereinafter provided, on or before the Maturity Date identified above, but solely from the Sources hereinafter identified, the principal amount of this Note from time to time advanced by the Registered Owner (as evidenced by the Certificate of Expenditures executed by the City with respect to such amount) to pay costs of the Project (as hereafter defined) in accordance with the ordinance

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<sup>1</sup>Maximum Amount to be finally established on the Completion Date, but not to exceed \$1,187,800, per Section 4.03 of the Redevelopment Agreement.



hereinafter referred to up to the principal amount of \$[Insert amount upon issuance of Certificate], or such lesser amount as remains outstanding from time to time (the "Indebtedness") and to pay the Registered Owner interest on that amount at the Interest Rate per year specified above beginning on the date the initial payment of costs of the Project can be made under Section 4.03(a) of the Redevelopment Agreement. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. Accrued but unpaid interest on this Note shall also accrue at the interest rate per year until paid.

Principal of and interest on this Note from the Available Incremental Taxes (as defined in the hereinafter defined Redevelopment Agreement) is due March 1 of each year until the earlier of Maturity or until this Note is paid in full. Payments shall first be applied to interest. The principal of and interest on this Note are payable in lawful money of the United States of America, and shall be made to the Registered Owner hereof as shown on the registration books of the City maintained by the Comptroller of the City, as registrar and paying agent (the "Registrar"), at the close of business on the fifteenth day of the month immediately prior to the applicable payment, maturity or redemption date, and shall be paid by check or draft of the Registrar, payable in lawful money of the United States of America, mailed to the address of such Registered Owner as it appears on such registration books or at such other address furnished in writing by such Registered Owner to the Registrar; provided, that the final installment of principal and accrued but unpaid interest will be payable solely upon presentation of this Note at the principal office of the Registrar in Chicago, Illinois or as otherwise directed by the City. The Registered Owner of this Note shall note on the Payment Record attached hereto the amount and the date of any payment of the principal of this Note promptly upon receipt of such payment.

This Note is issued by the City in the principal amount of advances made from time to time by the Registered Owner up to the maximum amount of \$[Insert amount upon issuance of the Certificate], such actual amount to be determined on the Completion Date, for the purpose of paying the costs of certain eligible redevelopment project costs incurred by Developer (the “Project”), in connection with the development of an approximately 127,000 square feet mixed-use retail/commercial/residential-condominium facility on the Property (the “Project”), which will include 6 condominium units earning no more than 100% of AMI in compliance with the affordability guidelines established by the Chicago Department of Housing, all in accordance with the Constitution and the laws of the State of Illinois, and particularly the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-1 et seq.) (the “TIF Act”), the Local Government Debt Reform Act (30 ILCS et seq.) and an ordinance adopted by the City Council of the City on \_\_\_\_\_, \_\_\_\_ (the “Ordinance”), in all respects as by law required.

The City has assigned and pledged certain rights, title and interest of the City in and to certain incremental ad valorem tax revenues from the Project Area which the City is entitled to receive pursuant to the TIF Act and the Ordinance, in order to pay the principal and interest of this Note. Reference is hereby made to the aforesaid Ordinance and the Redevelopment Agreement for a description, among others, with respect to the determination, custody and application of said revenues, the nature and extent of such security with respect to this Note and the terms and conditions under which this Note is issued and secured. **THIS NOTE IS A SPECIAL LIMITED OBLIGATION OF THE CITY, AND IS PAYABLE SOLELY FROM AVAILABLE INCREMENTAL TAXES, AND SHALL BE A VALID CLAIM OF THE REGISTERED OWNER HEREOF ONLY AGAINST SAID SOURCES. THIS**

**NOTE SHALL NOT BE DEEMED TO CONSTITUTE AN INDEBTEDNESS OR A LOAN AGAINST THE GENERAL TAXING POWERS OR CREDIT OF THE CITY, WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION. THE REGISTERED OWNER OF THIS NOTE SHALL NOT HAVE THE RIGHT TO COMPEL ANY EXERCISE OF THE TAXING POWER OF THE CITY, THE STATE OF ILLINOIS OR ANY POLITICAL SUBDIVISION THEREOF TO PAY THE PRINCIPAL OR INTEREST OF THIS NOTE.** The principal of this Note is subject to redemption on any date, as a whole or in part, at a redemption price of 100% of the principal amount thereof being redeemed. There shall be no prepayment penalty. Notice of any such redemption shall be sent by registered or certified mail not less than five (5) days nor more than sixty (60) days prior to the date fixed for redemption to the registered owner of this Note at the address shown on the registration books of the City maintained by the Registrar or at such other address as is furnished in writing by such Registered Owner to the Registrar.

This Note is issued in fully registered form in the denomination of its outstanding principal amount. This Note may not be exchanged for a like aggregate principal amount of notes or other denominations.

This Note is transferable by the Registered Owner hereof in person or by its attorney duly authorized in writing at the principal office of the Registrar in Chicago, Illinois, but only in the manner and subject to the limitations provided in the Ordinance, and upon surrender and cancellation of this Note. Upon such transfer, a new Note of authorized denomination of the same maturity and for the same aggregate principal amount will be issued to the transferee in

exchange herefor. The Registrar shall not be required to transfer this Note during the period beginning at the close of business on the fifteenth day of the month immediately prior to the maturity date of this Note nor to transfer this Note after notice calling this Note or a portion hereof for redemption has been mailed, nor during a period of five (5) days next preceding mailing of a notice of redemption of this Note. Such transfer shall be in accordance with the form at the end of this Note.

This Note hereby authorized shall be executed and delivered as the Ordinance and the Redevelopment Agreement provide.

Pursuant to the Redevelopment Agreement dated as of \_\_\_\_\_, \_\_\_\_ between the City and the Registered Owner (the "Redevelopment Agreement"), the Registered Owner has agreed to acquire and construct the Project and to advance funds for the construction of certain facilities related to the Project on behalf of the City. The cost of such acquisition and construction in the amount not to exceed \$[Insert amount upon issuance of Certificate] shall be deemed to be a disbursement of the proceeds of this Note, subject, however, to the maximum amount payable to Developer under the Redevelopment Agreement.

Pursuant to Section 15.01 and Section 15.02 of the Redevelopment Agreement, the City has reserved the right to suspend and/or terminate payments of principal and of interest on this Note upon the occurrence of certain conditions, and the City has reserved the right to offset liquidated damage amounts owed to the City against the principal amount outstanding under this Note. The City shall not be obligated to make payments under this Note if an Event of Default (as defined in the Redevelopment Agreement), or condition or event that with notice or the

passage of time or both would constitute an Event of Default, has occurred. Such rights shall survive any transfer of this Note. The City and the Registrar 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 for all other purposes and neither the City nor the Registrar shall be affected by any notice to the contrary, unless transferred in accordance with the provisions hereof.

It is hereby certified and recited that all conditions, acts and things required by law to exist, to happen, or to be done or performed precedent to and in the issuance of this Note did exist, have happened, have been done and have been performed in regular and due form and time as required by law; that the issuance of this Note, together with all other obligations of the City, does not exceed or violate any constitutional or statutory limitation applicable to the City.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed by the Registrar.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

**IN WITNESS WHEREOF**, the City of Chicago, Cook County, Illinois, by its City Council, has caused its official seal to be imprinted by facsimile hereon or hereunto affixed, and has caused this Note to be signed by the duly authorized signature of the Mayor and attested by the duly authorized signature of the City Clerk of the City, all as of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Mayor

(SEAL)

Attest:

City Clerk

**CERTIFICATE  
OF  
AUTHENTICATION**

This Note is described in the within mentioned Ordinance and is the Tax Increment Allocation Revenue Note Devon and Western Redevelopment Project), Taxable Series A, of the City of Chicago, Cook County, Illinois.

Comptroller

Date:

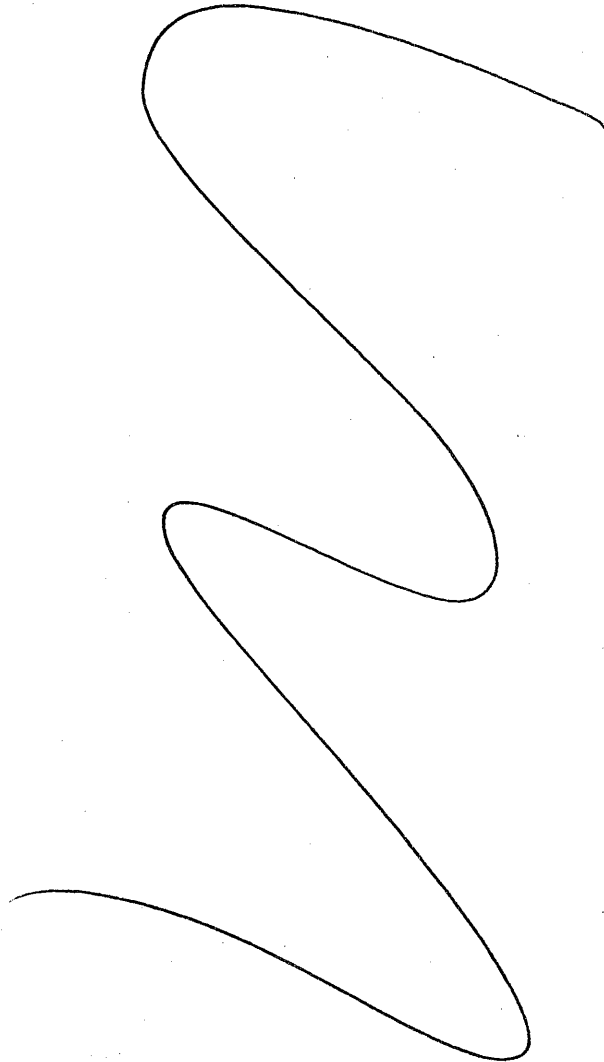
\_\_\_\_\_  
(\_\_\_\_,200\_\_\_\_)  
Registrar  
and Paying Agent  
Comptroller of the  
City of Chicago,  
Cook County, Illinois

**PRINCIPAL PAYMENT RECORD**

DATE OF PAYMENT

PRINCIPAL PAYMENT

PRINCIPAL BALANCE DUE



(ASSIGNMENT)

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto the within Note and does hereby irrevocably constitute and appoint attorney to transfer the said Note on the books kept for registration thereof with full power of substitution in the premises.

Dated:

Registered Owner

NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears upon the face of the Note in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed:

Notice: Signature(s) must be guaranteed by a member of the New York Stock Exchange or a commercial bank or trust company.

Consented to by:

CITY OF CHICAGO  
DEPARTMENT OF PLANNING AND DEVELOPMENT

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

ITS: \_\_\_\_\_



**EXHIBIT C**

**CERTIFICATION OF EXPENDITURE**

(Date)

To: Registered Owner

Re: City of Chicago, Cook County, Illinois (the "City")  
\$ \_\_\_\_\_ Tax Increment Allocation Revenue Note  
(Devon and Western Redevelopment Project, Taxable Series A)  
(the "Redevelopment Note")

This Certification is submitted to you, Registered Owner of the Redevelopment Note, pursuant to the Ordinance of the City authorizing the execution of the Redevelopment Note adopted by the City Council of the City on \_\_\_\_\_, \_\_\_\_ (the "Ordinance"). All terms used herein shall have the same meaning as when used in the Ordinance.

The City hereby certifies that \$ \_\_\_\_\_ is advanced as principal under the Redevelopment Note as of the date hereof. Such amount has been properly incurred, is a proper charge made or to be made in connection with the redevelopment project costs defined in the Ordinance and has not been the basis of any previous principal advance. As of the date hereof, the outstanding principal balance under the Redevelopment Note is \$ \_\_\_\_\_, including the amount of this Certificate and less payment made on the Note.

IN WITNESS WHEREOF, the City has caused this Certification to be signed on its behalf as of \_\_\_\_\_, 200\_.

CITY OF CHICAGO

By: \_\_\_\_\_  
Commissioner  
Department of Planning and  
Development

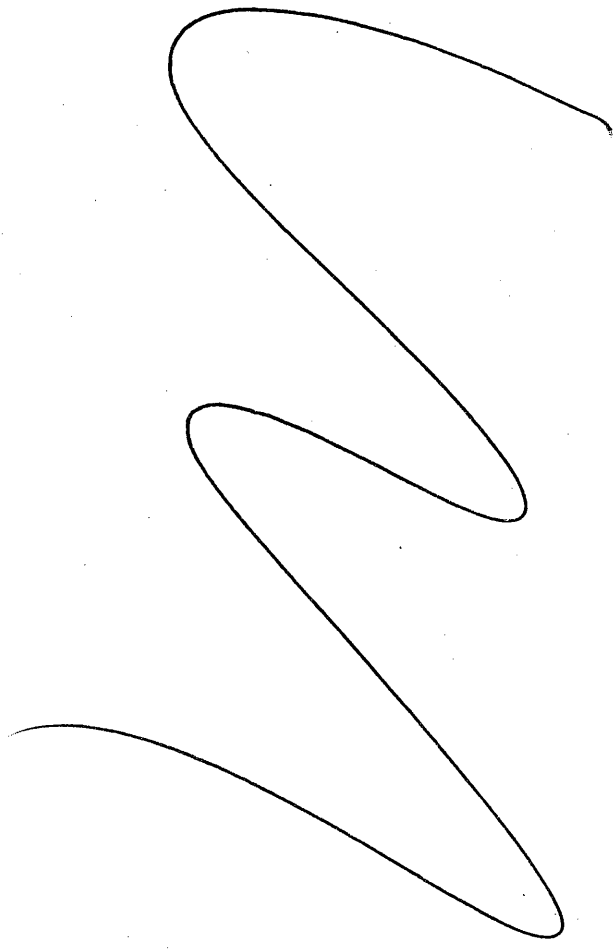
AUTHENTICATED BY:

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REGISTRAR

**[EXHIBIT N]**

[Intentionally Omitted]



**EXHIBIT O**

**FORM OF SUBORDINATION AGREEMENT**

SEE ATTACHED

