

- Collateral: Letter of Credit to be issued by American National Bank and Trust Company of Chicago, Arlington Heights, Illinois (or a financial institution meeting Program requirements, acceptable to the City).
- Letter of Credit shall be irrevocable and unconditional in the form of a direct pay letter of credit, subject to approval by the Corporation Counsel, and shall be provided in the amount of the principal of the Loan plus interest.
- Purpose: To provide financial assistance for the acquisition of an existing 168,500 square foot facility located at 4130 South Morgan Street, Chicago, Illinois, with such facility to be used for the manufacture, assembly, and packaging of automotive brake products.

---

AUTHORIZATION FOR EXECUTION OF REDEVELOPMENT  
AGREEMENT WITH MR. MICHAEL A. TADIN AND  
MARINA CARTAGE, INC. FOR PROJECT AT  
4450 SOUTH MORGAN STREET.

The Committee on Finance submitted the following report:

CHICAGO, February 7, 1996.

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

Your Committee on Finance, having had under consideration an ordinance authorizing the Commissioner of the Department of Planning and Development to enter into and execute a redevelopment agreement with Michael A. Tadin and Marina Cartage, Inc. for a project located at 4450 South Morgan Street, having had the same under advisement, begs leave to report and recommend that Your Honorable Body *Pass* the proposed ordinance transmitted herewith.

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

Respectfully submitted,

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

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

*Yeas* -- Aldermen Granato, Haithcock, Tillman, Preckwinkle, Holt, Steele, Beavers, Dixon, Shaw, Buchanan, Huels, Frias, Olivo, Burke, Jones, Coleman, Streeter, Murphy, Rugai, Troutman, Evans, Munoz, Zalewski, Chandler, Ocasio, Burnett, E. Smith, Burrell, Wojcik, Suarez, Gabinski, Mell, Austin, Colom, Banks, Giles, Allen, Laurino, O'Connor, Doherty, Natarus, Bernardini, Hansen, Levar, Shiller, Schulter, M. Smith, Moore, Stone -- 49.

*Nays* -- None.

Alderman O'Connor moved to reconsider the foregoing vote. The motion was lost.

The following is said ordinance as passed:

WHEREAS, Pursuant to an ordinance adopted by the City Council (the "City Council") of the City of Chicago (the "City") on February 26, 1992 and published at pages 13145 -- 13177 and 13180 -- 13182 of the Journal of Proceedings of the City Council of such date, a certain redevelopment plan and project (the "Plan") for the Stockyards Southeast Quadrant Industrial Redevelopment Area (the "Area") was approved pursuant to the Illinois Tax Increment Allocation Redevelopment Act, as amended (65 ILCS 5/11-74.4-1, et seq.) (1994) (the "Act"); and

WHEREAS, Pursuant to an ordinance adopted by the City Council on February 26, 1992 and published at pages 13177 -- 13178 and 13183 -- 13186 of the Journal of the Proceedings of the City Council of such date, the Area was designated as a redevelopment project area pursuant to the Act; and

WHEREAS, Pursuant to an ordinance (the "T.I.F. Ordinance") adopted by the City Council on February 26, 1992 and published at pages 13185 -- 13191 of the Journal of the Proceedings of the City Council of such date, tax increment allocation financing was adopted pursuant to the Act as a means of financing certain Area redevelopment project costs (as defined in the Act) incurred pursuant to the Plan; and

WHEREAS, Lakeside Bank Trust Number 10-1731 (the "Land Trust"), the sole beneficiary of which is Michael A. Tadin, has acquired certain property located within the Area at 4450 South Morgan Street, Chicago, Illinois 60609 (the "Site") and Marina Cartage, Inc., an Illinois corporation (the "Company"), shall construct an approximately thirty-two thousand seven hundred (32,700) square foot building with an approximately three thousand two hundred (3,200) square foot basement thereon to be used as a truck maintenance, warehouse, dispatch and service facility (the "Project") in order to consolidate and expand the operations of the Company and affiliated companies, which currently employ approximately one hundred sixty (160) persons on the Site, with an additional fifteen (15) full-time and five (5) part-time jobs to be created within one (1) year of completion of the Project; and

WHEREAS, The Company, the Land Trust and Michael A. Tadin have proposed to undertake the redevelopment of the Site in accordance with the Plan and pursuant to the terms and conditions of a proposed redevelopment agreement to be executed by the Company and the City, including but not limited to acquisition of the Site, construction of the facilities and retention and creation of the jobs, to be financed in part by a portion of the proceeds of the City's Tax Increment Allocation Revenue Bonds (Stockyards Southeast Quadrant Industrial Redevelopment Project) Series 1994B, secured by incremental taxes, if any, deposited in the Stockyards Southeast Quadrant Industrial Redevelopment Project Area Special Tax Allocation Fund (as defined in the T.I.F. Ordinance) pursuant to Section 5/11-74.4-8(b) of the Act; and

WHEREAS, Pursuant to Resolution 95-CDC-63 adopted by the Community Development Commission of the City of Chicago (the "Commission") on December 12, 1995, the Commission authorized the City's Department of Planning and Development ("D.P.D.") to publish notice pursuant to Section 5/11-74.4(c) of the Act of its intention to negotiate a redevelopment agreement with the Company or affiliated companies, for the Project and to request alternative proposals for redevelopment of the Area or a portion thereof; and

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

WHEREAS, Since no other responsive proposals were received by D.P.D. for the redevelopment of the Area or a portion thereof within fourteen (14) days after such publication, pursuant to Resolution 95-CDC-63, the Commission has recommended that the Company or affiliated companies be designated as the developer for the Project and that D.P.D. be authorized to negotiate, execute and deliver on behalf of the City a redevelopment agreement with the Company or affiliated companies for the Project; now, therefore,

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

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

SECTION 2. The Company, the Land Trust and Michael A. Tadin (collectively, the "Developer") are hereby designated as the Developer for the Project pursuant to Section 5/11-74.4-4 of the Act.

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

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

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

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

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

*Exhibit "A".*

*Redevelopment Agreement*

*Between*

*The City Of Chicago*

*And*

*Marina Cartage, Inc.*

This Marina Cartage, Inc. redevelopment agreement (this "Agreement")



is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 1996, by and among the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("D.P.D."), and Marina Cartage, Inc., an Illinois corporation (the "Company"), Lakeside Bank, as Trustee for Trust Number 10-1731, an Illinois land trust (the "Land Trust") and Michael A. Tadin (collectively, 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 authority to promote the health, safety, and welfare of the City and its inhabitants, 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. (1992 State Bar Edition) (the "Act") to finance the redevelopment of blighted areas.

C. City Council Authority: To induce redevelopment pursuant to the Act, the City Council of the City (the "City Council") adopted the following ordinances on February 26, 1992: (1) "An Ordinance of the City of Chicago, Illinois, Concerning the Approval of Tax Increment Redevelopment Plan for the Stockyards Southeast Quadrant Industrial Redevelopment Area" (amended on September 14, 1994 and January 10, 1996); (2) "An Ordinance of the City of Chicago, Illinois, Concerning the Designation of the Stockyards Southeast Quadrant Industrial Redevelopment Area as a Redevelopment Project Area Pursuant to Tax Increment Allocation Redevelopment Act"; and (3) "An Ordinance of the City of Chicago, Illinois, Concerning the Adoption of Tax Increment Allocation Financing for the Stockyards Southeast Quadrant Industrial Redevelopment Area" (the "T.I.F. Adoption Ordinance"), (collectively referred to herein as the "T.I.F. Ordinances"). The redevelopment project area (the "Redevelopment Area") is legally described in (Sub)Exhibit A hereto.

D. The Project: The Land Trust has purchased certain property located within the Redevelopment Area at 4450 South Morgan Street, Chicago, Illinois 60609 and legally described on (Sub)Exhibit B hereto (the "Property"), and, within the time frames set forth in Section 3.01 hereof, the Developer shall commence and complete the construction of an approximately thirty-two thousand seven hundred (32,700) square-foot building with an approximately three thousand two hundred (3,200) square-foot basement thereon, to be used as a truck maintenance, warehouse, dispatch and service facility (the "Facility"). The Facility shall include

eleven (11) truck drive-through stalls, a dispatch office, a drivers' room, a warehouse, a lunch room and bathroom facilities. The remainder of the Property shall include paving to provide parking for approximately sixty (60) cars and two hundred (200) trucks and appropriate landscaping. The Facility and related improvements (including but not limited to those T.I.F.-Funded Improvements as defined below and set forth on (Sub)Exhibit C) are collectively referred to herein as the "Project". The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

E. **Redevelopment Plan:** The Project will be carried out in accordance with this Agreement and the City of Chicago Stockyards Southeast Quadrant Industrial Redevelopment Area Tax Increment Financing Program Redevelopment Plan (the "Redevelopment Plan") attached hereto as (Sub)Exhibit D.

F. **City Financing:** The City agrees to use, in the amounts set forth in Section 4.03 hereof, a portion of the proceeds (the "T.I.F. Bond Proceeds") of its Tax Increment Allocation Revenue Bonds (Stockyards Southeast Quadrant Industrial Redevelopment Project) Series 1994B (the "T.I.F. Bonds") issued pursuant to an ordinance adopted by the City Council on September 14, 1994 (the "T.I.F. Bond Ordinance") pursuant to the terms and conditions of this Agreement.

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

*Section 1.*

*Recitals.*

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

*Section 2.*

*Definitions.*

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

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

"Certificate" shall mean the certificate of completion described in Section 7.01 hereof.

"Change Order" shall mean any amendment or modification to the scope drawings, plans and specifications or the project budget as described in Section 3.03, Section 3.04 and Section 3.05, respectively.

"City Fee" shall mean the fee described in Section 4.03(c) hereof.

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

"Closing Date" shall mean the date of execution of this Agreement by all parties hereto.

"Construction Contract" shall mean that certain contract, substantially in the form attached hereto as (Sub)Exhibit E, to be entered into between the Developer and the general contractor providing for construction of the Project.

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

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

"Environmental Laws" shall mean any and all 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, which amount may be increased pursuant to Section 4.06 (Cost Overruns).

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

"Escrow Agreement" shall mean the escrow agreement establishing a construction escrow, to be entered into as of the date hereof by the City, the title company and the Developer, substantially in the form of (Sub)Exhibit F attached hereto.

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

"Financial Statements" shall mean complete reviewed 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.

"First Construction Disbursement" shall mean the first disbursement from the Escrow subsequent to the Closing Date related to construction or development costs.

"General Contractor" shall mean the general contractor or construction supervisor 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 T.I.F. Adoption Ordinance and Section 5/11-74.4-8(b) of the Act as amended from time to time, are allocated to and when collected are paid to the Treasurer of the City of Chicago for deposit by the Treasurer into a special tax allocation fund established to pay redevelopment project costs and obligations incurred in the payment thereof.

"Lender Financing" shall mean funds borrowed by the Developer from private lenders and irrevocably available to pay for costs of the Project.

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

"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 (Sub)Exhibit G hereto.

"Plans and Specifications" shall mean final construction documents containing a site plan and working drawings and specifications for the Project.

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

"Private Financing" shall mean Equity and Lender Financing, in the amount set forth in Section 4.01 hereof.

"Project Budget" shall mean the budget attached hereto as (Sub)Exhibit H, showing the total cost of the Project by line item, furnished by the Developer to D.P.D., in accordance with Section 3.03 hereof.

"Redevelopment Project Costs" shall mean redevelopment project costs as defined in Section 5/11-74.4-3 (q) of the Act, as amended from time to time.

"Responsible Bid" shall mean a bid submitted in writing, containing sufficiently detailed information for the bid to be fully assessed, and submitted by a company which has demonstrated that it possesses the requisite resources, expertise, experience and financial stability to fully perform the services that are a subject of the bid and which has a reputation in the relevant industry for reliability, quality workmanship and consistent satisfaction of bid submissions.

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

"Stockyards Southeast Quadrant Industrial T.I.F. Fund" shall mean the special tax allocation fund created by the City in connection with the Redevelopment Area into which the Incremental Taxes will be deposited.

"Survey" shall mean an A.L.T.A. plat of survey of the Property dated November 3, 1995, acceptable in form and content to the City and the title company, prepared by a surveyor registered in the State, 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 Department of Housing and Urban Development (and updates thereof to reflect improvements to the Property in connection with the construction of the Facilities and related improvements as required by the City or lender(s) providing Lender Financing).

"Term of the Agreement" shall mean the period for which the Redevelopment Area is in effect (through and including January 1, 2015).



"T.I.F.-Funded Improvements" shall mean those improvements of the Project which (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Plan and (iii) the City has agreed to pay for out of the City Funds, subject to the terms of this Agreement.

"Title Company" shall mean Chicago Title and Trust Company.

"Title Policy" shall mean a title insurance policy in the most recently revised A.L.T.A. 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 any previously recorded liens against the Property related to Lender Financing, issued by the Title Company.

"W.B.E.(s)" or women-owned business means a business enterprise identified in the *Directory of Certified Women Business Enterprises* published by the City's Purchasing Department, or otherwise certified by the City's Purchasing Department as a women-owned business enterprise.

### *Section 3.*

#### *The Project.*

##### 3.01 The Project.

With respect to the Facility, pursuant to the Plans and Specifications, the Developer: (i) has commenced construction in December, 1995; and (ii) shall complete construction and conduct business operations therein no later than November 30, 1996, subject to Section 18.17.

##### 3.02 D.P.D. Approval Of Scope Drawings And Plans And Specifications.

(a) Preliminary Approval. The Scope Drawings and Plans and Specifications shall conform to the Redevelopment Plan, as amended from time to time, and all applicable federal, state and local laws, ordinances and regulations. No later than fifteen (15) business days prior to the Closing Date, the Developer shall deliver the Scope Drawings to D.P.D. for its review and written approval. The Developer shall simultaneously submit all such 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.

(b) Revisions. In the event D.P.D. rejects all or any portion of the Scope Drawings and/or Plans and Specifications as initially presented pursuant to

Section 3.02(a), the Developer shall have fifteen (15) business days from the date the Developer is notified of such rejection to submit revised or corrected documents to D.P.D. for D.P.D.'s written approval. After the initial approval, subsequent qualifying proposed changes shall be submitted to D.P.D. as a Change Order pursuant to Section 3.04 hereof.

### 3.03 Project Budget.

The Developer has furnished to D.P.D., and D.P.D. has approved, a Project Budget dated as of the date hereof showing total costs for the Project in an amount not less than Four Million Five Hundred Forty-three Thousand Eight Hundred Eighty-eight and no/100 Dollars (\$4,543,888.00). The Developer hereby certifies to the City that (a) the City Funds, together with Private Financing described in Section 4.01 hereof, shall be sufficient to complete the Project; and (b) to the best of Developer's knowledge after diligent inquiry, the Project Budget is true, correct and complete in all material respects. The Developer shall promptly deliver to D.P.D. 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) must be submitted by the Developer to D.P.D. for D.P.D.'s prior written approval. Unless necessary for the timely, safe or efficient completion of the Project, the Developer shall not authorize or permit the performance of any work relating to such Change Order or the furnishing of materials in connection therewith prior to the receipt by the Developer of D.P.D.'s written approval. The Construction Contract, and each contract between the General Contractor and any subcontractor, shall contain a provision to this effect. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of T.I.F. Bond Proceeds which the City has pledged pursuant to this Agreement or provide any other additional assistance to the Developer. Notwithstanding anything to the contrary in this Section 3.04 or Section 3.02(b), Change Orders costing less than Fifty Thousand and no/100 Dollars (\$50,000.00) each, to an aggregate amount of Two Hundred Fifty Thousand and no/100 Dollars (\$250,000.00), do not require D.P.D.'s prior written approval as set forth in this Section 3.04, but D.P.D. shall be notified in writing of all such Change Orders within five (5) business days of the implementation thereof and the Developer, in connection with such notice, shall identify to D.P.D. the source of funding therefor.

### 3.05 D.P.D. Approval.

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

### 3.06 Other Approvals.

Any D.P.D. 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 hereof. The Developer shall not commence construction of the Project until the Developer has obtained all necessary permits and approvals.

### 3.07 Progress Reports And Survey Updates.

When submitting draw requests, the Developer shall provide D.P.D. with written progress reports detailing the status of the Project, including a revised completion date, if necessary (with any change in completion date of thirty (30) days or more being considered a Change Order, requiring D.P.D.'s written approval pursuant to Section 3.04). The Developer shall provide three (3) copies of an updated survey to D.P.D. upon the request of D.P.D. or any lender providing Lender Financing, reflecting improvements made to the Property.

### 3.08 Inspecting Architect.

Carl R. Klimek & Associates (the "Architect") shall act as the inspecting architect, at the Developer's expense, for the Project. The Architect shall perform periodic inspections with respect to the Project, providing certifications with respect thereto to D.P.D., prior to requests for disbursement for costs related to the Project pursuant to the Escrow Agreement.

### 3.09 Barricades.

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

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

### 3.10 Signs And Public Relations.

If required by the City, 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 Developer, the Property and the Project in the City's promotional literature and communications.

### 3.11 Utility Connections.

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

### 3.12 Permit Fees.

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

## *Section 4.*

### *Financing.*

#### 4.01 Total Project Cost And Sources Of Funds.

The cost of the Project is estimated to be Four Million Five Hundred Forty-three Thousand Eight Hundred Eighty-eight Dollars (\$4,543,888), to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

Private Financing	\$3,407,916
Estimated City Funds (subject to Section 4.03)	<u>1,135,972</u>
Estimated Total:	\$4,543,888

#### 4.02 Developer Funds.

Private Financing may be used to pay any Project cost, including but not limited to Redevelopment Project Costs.

#### 4.03 City Funds.

(a) Uses of City Funds. City Funds may be used to pay directly or reimburse the Developer for costs of T.I.F.-Funded Improvements only. (Sub)Exhibit C sets forth, by line item, the T.I.F.-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, contingent upon receipt by the City of documentation satisfactory in form and substance to D.P.D. evidencing such cost and its eligibility as a Redevelopment Project Cost.

(b) Sources of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Section 5 hereof, the City hereby agrees to reserve City Funds (the "City Funds") from T.I.F. Bond Proceeds to pay for or reimburse the Developer for the costs of the T.I.F.-Funded Improvements, provided, however, that the total amount of City Funds expended for T.I.F.-Funded Improvements shall not exceed the lesser of One Million One Hundred Thirty-five Thousand Nine Hundred Seventy-two Dollars (\$1,135,972) or twenty-five percent (25%) of the actual total Project costs.

#### 4.04 Construction Escrow.

[The City and the Developer hereby agree to enter into the Escrow Agreement with the Title Company or an affiliate of the Title Company. All disbursements of Project funds shall be made through the funding of draw requests with respect thereto pursuant to the Escrow Agreement and this Agreement. In case of any conflict between the terms of this Agreement and the Escrow Agreement, the terms of this Agreement shall control.]

#### 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 D.P.D. and approved by D.P.D. as satisfying costs covered in the Project Budget shall be considered previously contributed Private Financing hereunder (the "Prior Expenditures"). D.P.D. shall have the right, in its reasonable discretion, to disallow any such expenditure as a Prior Expenditure. The A.I.A. form "Owner's Sworn Statement", being (Sub)Exhibit I hereto, sets forth the Prior Expenditures approved by D.P.D. as Prior Expenditures. Prior Expenditures made for



items other than T.I.F.-Funded Improvements shall not be reimbursed to the Developer, but shall reduce the amount of Private Financing required to be contributed by the Developer pursuant to Section 4.01 hereof.

(b) City Fee. The City may allocate the sum of Sixty Thousand Dollars (\$60,000) for payment of costs incurred by the City for the administration and monitoring of the Project. Such fee shall be in addition to and shall not be deducted from or considered a part of the City Funds, nor shall the Developer be required to pay such fee.

(c) Allocation Among Line Items. Disbursements for expenditures related to T.I.F.-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 D.P.D., being prohibited; provided, however, that such transfers among line items, in an amount not to exceed Twenty-five Thousand Dollars (\$25,000) or One Hundred Thousand Dollars (\$100,000) in the aggregate, may be made without the prior written consent of D.P.D..

(d) Allocation of Costs With Respect To Sources of Funds; Pro Rata Disbursement of Private Financing and City Funds. Insofar as the type and timing of the expenditures permit, with respect to the disbursement of Private Financing and City Funds, the proportion of the aggregate amount of funds disbursed from Private Financing (whether for T.I.F.-Funded Improvements or non-T.I.F.-Funded Improvements) to the aggregate amount of funds disbursed from City Funds, shall not be less than 3.00 to 1.00, and shall be disbursed as follows:

(A) Costs of non-T.I.F.-Funded Improvements. Each amount paid pursuant to the Escrow Agreement or for Prior Expenditures for costs other than T.I.F.-Funded Improvements shall be charged to Private Financing.

(B) Costs of T.I.F.-Funded Improvements. Each amount paid pursuant to the Escrow Agreement or for Prior Expenditures for costs of T.I.F.-Funded Improvements shall be charged either to Private Financing (in order to meet the pro rata disbursement requirement set forth above) or City Funds, to be used to directly pay for, or to reimburse the Developer for its previous payment for (out of Private Financing) T.I.F.-Funded Improvements.

#### 4.06 Cost Overruns.

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

*Section 5.*

*Conditions Precedent.*

The following conditions shall be complied with to City's satisfaction within the time periods set forth below or, if no time period is specified, prior to the Closing Date:

5.01 Project Budget.

The Developer shall have submitted to D.P.D., and D.P.D. shall have approved, a Project Budget in accordance with the provisions of Section 3.03.

5.02 Scope Drawings And Plans And Specifications.

The Developer shall have submitted to D.P.D., and D.P.D. shall have approved, the Scope Drawings and Plans and Specifications in accordance with the provisions of Section 3.02 hereof.

5.03 Other Governmental Approvals.

Not less than five (5) days prior to the First Construction Disbursement, the Developer shall have secured all other necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation and shall submit evidence thereof to D.P.D..

5.04 Financing.

The Developer shall have furnished proof reasonably acceptable to the City that the Developer has Private Financing in the amount set forth in Section 4.01 to complete the Project and satisfy its obligations under this Agreement. If a portion of such funds consists of Lender Financing, the Developer have furnished proof as of the Closing Date that the proceeds thereof are available to be drawn upon by the Developer as needed and are sufficient (along with the Equity and City Funds set forth in Section 4.01) to complete the Project.

5.05 Evidence Of Clean Title.

Not less than five (5) business days prior to the Closing Date, the Developer, at its own expense, shall have provided the City with a copy of the Title Policy and current searches under the Developer's name and the

following trade names of the Developer: [Marina Leasing, Inc., MAT Leasing, Inc., M.T. Transit] as follows:

Secretary of State	U.C.C. search
Secretary of State	Federal tax search
Cook County Recorder	U.C.C. 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
United States 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.

#### 5.06 Surveys.

Not less than five (5) business days prior to the Closing Date, the Developer shall have furnished the City with three (3) copies of the Survey.

#### 5.07 Insurance.

The Developer, at its own expense, shall have insured the Property in accordance with Section 12 hereof. At least five (5) business days prior to the Closing Date, certificates required pursuant to Section 12 hereof evidencing the required coverages shall have been delivered to D.P.D..

#### 5.08 Opinion Of The Developer's Counsel.

On the Closing Date, the Developer shall furnish the City with an opinion of counsel, substantially in the form attached hereto as (Sub)Exhibit J, with such changes as may be 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 (Sub)Exhibit J hereto, such opinions shall be obtained by the Developer from its general corporate counsel.

#### 5.09 Evidence Of Prior Expenditures.

Not less than twenty (20) business days prior to the Closing Date, the Developer shall have provided evidence satisfactory to D.P.D. in its sole discretion of the Prior Expenditures in accordance with the provisions of Section 4.43(a) hereof.

#### 5.10 Financial Statements.

Not less than thirty (30) days prior to the Closing Date, the Developer shall have provided Financial Statements to D.P.D. for its 1994 fiscal year, and audited or unaudited interim financial statements.

#### 5.11 Documentation.

The Developer shall have provided documentation to D.P.D., satisfactory in form and substance to D.P.D., with respect to current employment matters.

#### 5.12 Environmental.

Not less than thirty (30) days prior to the Closing Date, the Developer shall have provided D.P.D. with copies of that certain Phase I environmental audit completed with respect to the Property. Based on the City's review thereof, the City may, in its sole discretion, require the completion of a Phase II environmental audit with respect to the Property prior to the Closing Date. The City reserves the right to terminate negotiations with respect to this Agreement if, in the City's view, such audits reveal the existence of material environmental problems. Prior to the Closing Date, the Developer shall provide the City with a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits.

#### 5.13 Corporate Documents.

The Company shall provide 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; and such other corporate documentation as the City may request. The Land Trust shall provide a certified copy of its trust agreement, a letter of direction from the beneficiary and such other documentation as the City may request.

#### 5.14 Litigation.

The Developer shall provide to Corporation Counsel and D.P.D., at least ten (10) business days prior to the Closing Date, a description of all pending or threatened litigation or administrative proceedings involving the Developer, specifying, in each case, 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.

#### 5.15 Preconditions Of Disbursement.

Prior to each disbursement of City Funds hereunder, the Developer shall submit documentation of such expenditures to D.P.D., which shall be satisfactory to D.P.D. in its reasonable discretion. Delivery by the Developer to D.P.D. of any request of disbursement of City Funds hereunder shall, in addition to the items therein expressly set forth, constitute a certification to the City, as of the date of such request for disbursement, that:

- (a) the total amount of the disbursement request represents the actual amount payable to the General Contractor and/or subcontractors who have performed work on the Project;
- (b) all amounts shown as previous payments on the current disbursement request have been paid to the parties entitled to such payment;
- (c) the Developer has approved all work and materials for the current disbursement request, and to the best of the Developer's knowledge, 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 liens 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 ten (10) days after a written request by the City, deposit with the City or the escrow agent, 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 Developer shall have satisfied all other preconditions of disbursement of City Funds for each disbursement, including but not limited to requirements set forth in the T.I.F. Bond Ordinance, any certifications or representations made by the City in connection with the issuance of the T.I.F. Bonds, the T.I.F. Ordinances, this Agreement and/or the Escrow Agreement.

### *Section 6.*

#### *Agreements With Contractors.*

##### **6.01 Bid Requirement For General Contractor And Subcontractors.**

(a) Except as set forth in Section 6.01(b) below, 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 D.P.D. for its inspection and written approval. (i) For the T.I.F.-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) who has not submitted the lowest Responsible Bid for the T.I.F.-Funded Improvements, the Developer shall notify the City in writing, stating its reason for such selection. In the event that such selection is not satisfactory to the City in its

reasonable discretion, the difference between the lowest Responsible Bid and the bid selected may not be paid out of the City Funds. (ii) For Project work other than the T.I.F.-Funded Improvements, if the Developer selects a General Contractor (or the General Contractor selects any subcontractor) who has not submitted the lowest Responsible Bid, the Developer shall notify the City in writing, stating its reason for such selection. In the event that such selection is not satisfactory to the City in its reasonable discretion, the difference between the lowest Responsible Bid and the bid selected shall be subtracted from the actual total Project costs for purposes of the calculation of the amount of City Funds to be contributed to the Project pursuant to Section 4.03(b) hereof. The Developer shall submit copies of the Construction Contract to D.P.D. in accordance with Section 6.02 below. Photocopies of all subcontracts entered or to be entered into in connection with the T.I.F.-Funded Improvements shall be provided to D.P.D. within five (5) business days of the execution thereof.

(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, the Developer shall notify the City in writing, stating its reason for selecting that General Contractor without soliciting bids. In the event that such selection is not satisfactory to the City in its reasonable discretion, then the City may limit the amount of the fee of the General Contractor proposed to be paid out of City Funds. 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 bids from all subcontractors.

#### 6.02 Construction Contract.

Prior to the execution thereof, the Developer shall deliver to D.P.D. a copy of the proposed Construction Contract with the General Contractor selected to handle the Project in accordance with Section 6.01 above, for D.P.D.'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 D.P.D. 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, the Developer shall require that the General Contractor be bonded for its performance and payment for work to be performed in the public way by sureties having an AA rating or better using American Institute of Architect's Form No. A311 or its equivalent. The City shall be named as obligee or co-obligee on such bond.

#### 6.04 Employment Opportunity.

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

#### 6.05 Local Contractors And Vendors.

Subject to Section 6.01, the Developer shall use its best efforts to ensure that all contracts entered into in connection with the T.I.F.-Funded Improvements for work done, services provided or materials supplied shall be let (by the Developer, the General Contractor or any subcontractor) to persons or entities whose main office and place of business is located within the City of Chicago. The Construction Contract and each contract between the General Contractor and any subcontractor shall contain a provision to this effect.

#### 6.06 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 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 T.I.F.-Funded Improvements shall be provided to D.P.D. within five (5) business days of the execution thereof.

### *Section 7.*

#### *Completion Of Project.*

#### 7.01 Certificate Of Completion.

Upon completion of the construction of the Project and related redevelopment activities constituting 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, D.P.D. 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. D.P.D. shall respond to the Developer's written request for a Certificate by issuing either a Certificate or a written statement detailing the ways in which the Project does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by the

Developer in order to obtain the Certificate. The Developer may resubmit a written request for a Certificate upon completion of such measures.

#### 7.02 Effect Of Issuance Of Certificate; Continuing Obligations.

The Certificate relates only to the construction of the Project and related redevelopment activities constituting 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 Section \_\_\_ 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. 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 the Agreement, then the City shall have, but shall not be limited to, any of the following rights and remedies:

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

(b) the right (but not the obligation) to complete those T.I.F.-Funded Improvements that are public improvements and to pay for the costs of T.I.F.-Funded Improvements (including interest costs) out of City Funds or other City monies. In the event that the aggregate cost of completing the T.I.F.-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 T.I.F.-Funded Improvements in excess of the available City Funds; and

(c) the right to seek reimbursement of the City Funds from the Developer, provided that the City is entitled to rely on an opinion of

counsel that such reimbursement will not jeopardize the tax-exempt status of the T.I.F. Bonds.

#### 7.04 Notice Of Expiration Of Term Of Agreement.

Upon the expiration of the Term of the Agreement, D.P.D. 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 Company is an Illinois corporation duly organized, validly existing, qualified to do business in Illinois, and licensed to do business in every 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 of this Agreement by the Company and the Land Trust has been duly authorized by all necessary corporate action and will not violate its Articles of Incorporation or bylaws, 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) the Land Trust has acquired and, unless otherwise permitted pursuant to the terms of this Agreement, the Land Trust and Michael A. Tadin shall maintain good, indefeasible and merchantable title to the Property and all beneficial interest therein free and clear of all liens (except for the Permitted Liens and Lender Financing as disclosed in the Project Budget);



(e) the Developer is now and, to the best of its knowledge, 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 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 D.P.D.: (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) the Company and the Land Trust shall not enter into any transaction outside the ordinary course of their business and beyond the Company's corporate powers or the Land Trust's trust powers; and (4) enter into any transaction that would knowingly cause a material and detrimental change to the Developer's financial condition; and

(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 D.P.D., allow the existence of any liens against the Property other than the Permitted Liens or incur any indebtedness, secured or to be secured by the Property or any fixtures now or hereafter attached thereto, except Lender Financing as disclosed in the Project Budget.

#### 8.02 Covenant To Redevelop.

Upon D.P.D.'s approval of the Project Budget, the Scope Drawings and Plans and Specifications as provided in Section 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 (sub)exhibits attached hereto, the T.I.F. Ordinances, the T.I.F. Bond Ordinance, the Scope Drawings, the Plans and Specifications, the Project Budget and all amendments thereto, and all federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project, the Property and/or the Developer.

#### 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 the T.I.F.-Funded Improvements as provided in this Agreement.

#### 8.05 Job Creation And Retention; Covenant To Remain In The City.

Not less than one hundred sixty (160) jobs shall be retained by the Developer at the Project and not less than fifteen (15) full-time and five (5) part-time additional jobs shall be created by the Developer within one (1) year of completion of the Project, for a total of one hundred eighty (180) jobs to be retained or created by the Developer at the Facility or elsewhere within the City of Chicago through January 1, 2015. The Developer hereby covenants and agrees to maintain its operations within the City of Chicago through January 15, 2015.

#### 8.06 Employment Opportunity.

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.

#### 8.07 Employment Profile.

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

#### 8.08 Prevailing Wage.

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

#### 8.09 Arms-Length Transactions.

Unless D.P.D. shall have 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 T.I.F.-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 D.P.D.'s request, prior to any such disbursement.

#### 8.10 Conflict Of Interest.

The Developer represents and warrants 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, owns or controls (or has owned or controlled) any interest, or represents any person, as agent or otherwise, who owns or controls any interest, direct or indirect, in the Developer's business or the property described in (Sub)Exhibit B hereto; nor shall any such member, official, employee or consultant participate in any decision relating to the Developer's business which affects his or her interests or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested.

#### 8.11 Disclosure Of Interest.

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

#### 8.12 Financial Statements.

The Developer shall obtain and provide to D.P.D. Financial Statements for the Developer's fiscal years which ended December 31, 1994 and December 31, 1995. If requested by the City, the Developer shall obtain and provide to D.P.D. Financial Statements for the Developer's fiscal year ended each December 31 thereafter for the Term of the Agreement.

#### 8.13 Insurance.

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

#### 8.14 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, unless such Non-Governmental Charge is the subject of a good faith dispute between the Developer and a contractor; 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 D.P.D., within thirty (30) days of D.P.D.'s request, official receipts from the appropriate entity, or other proof satisfactory to D.P.D., evidencing payment of the Non-Governmental Charge in question. The Developer shall have the right, before any delinquency occurs, (i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of the Property (so long as no such contest or objection shall be deemed or construed to relieve, modify, or extend the Developer's covenants to pay any such Non-Governmental Charge at the time and in the manner provided in this Section 8.14); or (ii) at D.P.D.'s reasonable option, to furnish a good and sufficient bond or other security satisfactory to D.P.D. in such form and amounts as D.P.D. shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property or any portion thereof or any fixtures that are or may be attached thereto, during the pendency of such contest, adequate to pay fully any such contested Non-Governmental Charge and all interest and penalties upon the adverse determination of such contest.

#### 8.15 Developer's Liabilities.

The Developer shall not knowingly 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 notify D.P.D. within five (5) business days of any and all events or actions which may materially affect the Developer's ability to carry on its business operations or perform its obligations under this Agreement or any other documents and agreements.

#### 8.16 Compliance With Laws.

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

#### 8.17 Recording And Filing.

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

#### 8.18 Conditional Provisions.

The covenants set forth in (Sub)Exhibit L hereto, in their entirety or selectively, will become effective at the sole option of the City and upon the City's receipt of an opinion from a nationally recognized bond counsel that the effectiveness of those provisions will not adversely affect the tax-exempt status of the T.I.F. Bonds. In the event that the City exercises its option to make any covenant(s) in (Sub)Exhibit L effective, it shall so notify the Developer in accordance with Section 17 hereof.

#### 8.19 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 M.B.E./W.B.E. Compliance.

The Developer agrees for itself and, if necessary to meet the requirements set forth herein, shall contractually obligate its General Contractor and shall contractually obligate the General Contractor to obligate its subcontractors to agree that, during the Project:

- (a) Consistent with the findings which support the Minority-Owned and Women-Owned Business Enterprise Procurement Program (the "M.B.E./W.B.E. Program"), Section 2-92-420, et seq., Municipal Code of Chicago, and in reliance upon the provisions of the M.B.E./W.B.E. Program to the extent contained in, and as qualified by, the provisions of this Section 10.01, during the course of the Project, at least the following percentages of the aggregate hard construction costs (as set forth in the

Project Budget) shall be expended for contract participation by minority-owned business enterprises ("M.B.E.s") and by women-owned business enterprises ("W.B.E.s"):

- (1) at least twenty-five percent (25%) by M.B.E.s.; and
- (2) at least five percent (5%) by W.B.E.s..

(b) For purposes of this Section 10.01 only, the Developer and the General Contractor shall be deemed a "contractor" and this Agreement (and any contract let by the Developer in connection with the Project) shall be deemed a "contract" as such terms are defined in Section 2-92-420, Municipal Code of Chicago. In addition, the term "minority-owned business" or "M.B.E." shall mean a business enterprise identified in the *Directory of Certified Minority Business Enterprises* published by the City's Purchasing Department, or otherwise certified by the City's Purchasing Department as a minority-owned business enterprise; and the term "women-owned business" or "W.B.E." shall mean a business enterprise identified in the *Directory of Certified Women Business Enterprises* published by the City's Purchasing Department, or otherwise certified by the City's Purchasing Department as a women-owned business enterprise.

(c) Consistent with Section 2-92-440, Municipal Code of Chicago, the Developer's M.B.E./W.B.E. commitment may be achieved in part by the Developer's status as an M.B.E. or W.B.E. (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 M.B.E.s or W.B.E.s (but only to the extent of the lesser of (i) the M.B.E. or W.B.E. participation in such joint venture or (ii) the amount of any actual work performed on the Project by the M.B.E. or W.B.E.) by the Developer utilizing an M.B.E. or a W.B.E. 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 M.B.E.s or W.B.E.s, or by the purchase of materials used in the Project from one or more M.B.E.s or W.B.E.s, or by any combination of the foregoing. Those entities which constitute both an M.B.E. and a W.B.E. shall not be credited more than once with regard to the Developer's M.B.E./W.B.E. commitment as described in this Section 10.01. The Developer or the General Contractor may meet all or part of this commitment through credits received pursuant to Section 2-92-530 of the Municipal Code of Chicago for the voluntary use of M.B.E.s or W.B.E.s in its activities and operations other than the Project.

(d) The Developer shall deliver quarterly reports to D.P.D. during the Project describing its efforts to achieve compliance with this M.B.E./W.B.E. commitment. Such reports shall include, inter alia, the name and address of each M.B.E. and W.B.E. 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 M.B.E. or W.B.E. 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 D.P.D. in determining the Developer's compliance with this M.B.E./W.B.E. commitment. D.P.D. shall have access to the Developer's books and records, including, without limitation, payroll records, books of accounts and tax returns, on five (5) business days notice, to allow the City to review the Developer's compliance with its commitment to M.B.E./W.B.E. participation and the status of any M.B.E. or W.B.E. performing any portion of the Project.

(e) Upon the disqualification of any M.B.E. or W.B.E. 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 M.B.E. or W.B.E. as a replacement. For purposes of this subsection (e), the disqualification procedures are further described in Section 2-92-540, Municipal Code of Chicago.

(f) Any reduction or waiver of the Developer's M.B.E./W.B.E. commitment as described in this Section 10.01 shall be undertaken in accordance with Section 2-92-450, Municipal Code of Chicago.

#### Section 10.02 Employment Opportunity.

The Developer, on behalf of itself and its successors and assigns, hereby agrees, and shall contractually obligate and cause its or their General Contractor, subcontractors or any Affiliate of the Developer operating on the Property (collectively, the Developer, the "Employers" and individually, an "Employer") to agree, that for the Term of this Agreement with respect to the Developer and during the period of any other such party's provision of services hereunder or occupation of the Property:

(a) No Employer shall discriminate against any employee or applicant for employment on the basis of race, color, sex, age, religion, mental or physical disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status or source of income, as defined in the City of Chicago Human Rights Ordinance adopted December 21, 1988, Municipal Code of Chicago, Chapter 2-160, Section 2-160-010, et seq., as amended from time to time (the "Human Rights Ordinance"). Each Employer will take affirmative action to insure that applicants are employed and employees are treated during employment without regard to their race, color, religion, sex, national origin, ancestry, age, mental or physical disability, sexual orientation, marital status, parental status, military discharge status or source of income. Such action

shall include, but not be limited to the following: 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.

(b) All solicitation or advertisement for employees placed by or on behalf of any Employer shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, ancestry, age, mental or physical disability, sexual orientation, marital status, parental status, military discharge status or source of income.

(c) Each Employer shall comply with federal, state and local equal employment and affirmative action statutes, rules and regulations, including but not limited to, the Human Rights Ordinance and the Illinois Human Rights Act, 775 ILCS 5/1-101, et seq. (1992), and any subsequent amendments and regulations promulgated pursuant 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) Failure to comply with the employment obligations described in this Section 10 shall be a basis for the City to pursue remedies under the provisions of Section 14 hereof.

#### 10.03 City Resident Construction Worker Employment Requirement.

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

The Developer and the Employers may request a reduction or waiver of this minimum percentage level of Chicagoans as provided for in Section 2-



92-330 of the Municipal Code of Chicago in accordance with standards and procedures developed by the Purchasing Agent of the City.

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

Developer and the Employers shall provide for the maintenance of adequate employee residency records to show that actual Chicago residents are employed on the Project. Developer and the Employers shall maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

Upon the request of D.P.D., certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) shall be submitted to the Commissioner of D.P.D. with copy to D.P.D. 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 and the date that the Employer hired the employee should be written in after the employee's name.

The Developer and the other Employers shall provide full access to their employment records to the Purchasing Agent, the Commissioner of D.P.D., the Superintendent of the Chicago Police Department, the Inspector General, or any duly authorized representative of any of them. The Developer and the other Employers shall maintain all relevant personnel data and records for a period of at least five (5) years after final acceptance of the work constituting the construction of the Project as evidenced by the Certificate.

At the direction of D.P.D., affidavits and other supporting documentation will be required of the Developer and the other Employers to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

Good faith efforts on the part of each Employer to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Purchasing Agent) shall not suffice to replace the actual, verified achievement of the requirements of this section concerning the worker hours performed by actual Chicago residents.

The willful falsification of statements and the certification of payroll data may subject the Developer and the other Employers or employee to prosecution.

Nothing herein provided shall be construed to be a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246", or other



affirmative action required for equal opportunity under the provisions of this Agreement.

The Developer shall cause or require the provisions of this Section 10.03 to be included in all construction contracts and subcontracts related to the Project.

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

Developer and the other Employers shall make a good faith effort to hire City residents for any other temporary or permanent job vacancies created by the development or use of the Facilities. The Developer shall submit reports to D.P.D. from time to time detailing its compliance with this provision within thirty (30) days after receipt of a written request from D.P.D. with respect thereto.

#### *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 (sub)exhibits attached hereto, the Scope Drawings, the Plans and Specifications and all amendments thereto, the T.I.F. 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 subsidiaries under any Environmental Laws relating to the Property.

*Section 12.*

*Insurance.*

The Developer shall procure and maintain, or cause to be procured and maintained, at its sole cost and expense, at all times throughout the Term of this Agreement, and until each and every obligation of the Developer contained in the Agreement has been fully performed, the types of insurance specified below, with insurance companies authorized to do business in the State of Illinois covering all operations under this Agreement, whether performed by the Developer, the General Contractor or any subcontractor:

- (a) Prior to Execution and Delivery of this Agreement: At least ten (10) business days prior to the execution of this Agreement, the Developer shall procure and maintain, or cause to be procured and maintained, the following kinds and amounts of insurance:

- (i) Workers' Compensation And Occupational Disease Insurance.

Workers' Compensation and Occupational Disease Insurance, in accordance with the laws of the State of Illinois or any other applicable jurisdiction, covering all employees who are to provide a service under or in connection with this Agreement, and employer's liability coverage, with limits of not less than One Hundred Thousand Dollars (\$100,000) for each accident or illness.

- (ii) Commercial Liability Insurance (Primary And Umbrella).

Commercial Liability Insurance or equivalent with limits of not less than One Million Dollars (\$1,000,000) per occurrence, combined single limit, for bodily injury, personal injury and property damage liability. Coverage extensions shall include the following: all premises and operations, products/completed operations, independent contractors, cross liability, personal injury with no

exclusion pertaining to employment and contractual obligations, and contractual liability (with no limitation endorsement). The City of Chicago, its employees, elected officials, agents and representatives are to be named as additional insureds on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Agreement.

- (b) Construction: Prior to the construction of any portion of the Project, the Developer shall procure and maintain, or cause to be procured and maintained, the following kinds and amounts of insurance:

- (i) Workers' Compensation And Occupational Disease Insurance.

Workers' Compensation and Occupational Disease Insurance, in accordance with the laws of the State of Illinois or any other applicable jurisdiction, covering all employees who are to provide a service under or in connection with this Agreement and employer's liability coverage with limits of not less than Five Hundred Thousand Dollars (\$500,000) for each accident or illness.

- (ii) Commercial Liability Insurance (Primary And Umbrella).

Commercial Liability Insurance or equivalent with limits of not less than Five Million Dollars (\$5,000,000) per occurrence, combined single limit, for bodily injury, personal injury and property damage liability. Coverage extensions shall include the following: all premises and operations, products/completed operations (for a minimum of two (2) years following completion of construction of the Project), explosion, collapse, underground, independent contractors, cross liability, personal injury with no exclusion pertaining to employment and contractual obligations, and contractual liability (with no limitation endorsement). The City of Chicago, its employees, elected officials, agents and representatives are to be named as additional insureds on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Agreement.

(iii) Railroad Protective Liability Insurance.

When, in connection with this Agreement, any work is to be done adjacent to or on property owned by a railroad or public transit entity, the Developer shall procure and maintain, or cause to be procured and maintained, with respect to the operations that the Developer, the General Contractor or any subcontractor shall perform, Railroad Protective Liability Insurance in the name of such railroad or public transit entity. The policy shall have limits of not less than Two Million Dollars (\$2,000,000) per occurrence, combined single limit, and Six Million Dollars (\$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.

(iv) Comprehensive Automobile Liability Insurance.

When any motor vehicles (owned, leased, borrowed or otherwise) are used by the Developer, the General Contractor or any subcontractor for work to be performed in connection with this Agreement (other than work performed by the Developer in its ordinary course of business), the Developer shall procure and maintain, or cause to be procured and maintained, Comprehensive Automobile Liability Insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence combined single limit, for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

(v) All Risk Blanket Builder's Risk Insurance.

When the Developer, the General Contractor or any subcontractor undertakes any construction, including improvements, betterments, and/or repairs, the Developer, the General Contractor or any such subcontractor shall provide All Risk Blanket Builder's Risk Insurance to cover the materials, equipment, machinery and fixtures that are or will be part of the permanent Facility. Coverage extensions shall include boiler and machinery, flood, including surface water backup, and collapse. The City of Chicago shall be named as loss payee.

(vi) Professional Liability Insurance.

When any architects, engineers, construction managers or consultants of any kind perform work in connection with this Agreement, Professional Liability Insurance covering acts, errors or omissions shall be maintained with limits of not less than One Million Dollars (\$1,000,000). Coverage extensions shall include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Project. A claims-made policy that 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 in connection with this Agreement, Valuable Papers Insurance shall be maintained in an amount to insure against any loss whatsoever, and shall have limits sufficient to pay for the re-creation and reconstruction of such items.

(viii) Contractors' Pollution Liability Insurance.

When any environmental remediation work is undertaken by the Developer, the General Contractor or any subcontractor in connection with this Agreement, Contractors' Pollution Liability Insurance shall be procured with limits of not less than One Million Dollars (\$1,000,000) covering all construction and related work undertaken in connection with this Agreement. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis. The Developer, the General Contractor and any subcontractor shall comply with any additional insurance requirements that are stipulated by the Interstate Commerce Commission's Regulations, Title 49 of the Code of Federal Regulations, Department of Transportation; Title 40 of the Code of Federal Regulations, Protection of the Environment and any other federal, state or local regulations concerning the removal and transportation of Hazardous Materials.

(c) Other Provisions.

(i) Delivery of certificates to City: At least five (5) business days prior to the Closing Date (unless otherwise specified) the



Developer shall furnish the following certificates to D.P.D. at City Hall, Room 1000, 121 North LaSalle Street, Chicago, Illinois 60602:

Original certificates of insurance evidencing the required coverage, showing the City as a Certificate holder and, if applicable, loss payee or additional insured, to be in force on the date of execution of this Agreement, and renewal certificates of insurance or other evidence of renewal, if the coverages have an expiration or renewal date occurring during the Term of the Agreement. Each certificate of insurance shall provide that the City is to be given sixty (60) days prior written notice in the event coverage is substantially changed, cancelled or not renewed; and

Original City of Chicago Insurance Certificate of Coverage Form (blank form to be obtained from D.P.D.).

The receipt of the required certificates by D.P.D. does not constitute an agreement by the City that the insurance requirements of this Agreement have been fully met or that the insurance policies indicated on the certificates are in compliance with all requirements hereunder. The failure of the City to receive such certificates or to receive certificates that fully conform to the requirements of this Agreement shall not be deemed to be a waiver by the City of any of the insurance requirements set forth therein.

(ii) Receipt by the Developer of policies or certificates: The Developer shall advise all insurers of the insurance requirements set forth in this Agreement, and the receipt by the Developer of policies or certificates that do not conform to these requirements shall not relieve the Developer of its obligation to provide the insurance as set forth in this Agreement or required by law. Failure to comply with the insurance provisions of this Agreement constitutes an Event of Default hereunder, and the City is entitled to exercise all remedies with respect thereto, subject to Section 15.03. The Developer expressly understands and agrees that any coverages and limits furnished by Developer shall in no way limit the Developer's liability and responsibilities specified within this Agreement or as required by law.

(iii) The Developer shall require the General Contractor and all subcontractors to carry the insurance required herein, or alternatively, the Developer may provide the coverage on behalf of the General Contractor or any subcontractor, and if so, the evidence of insurance submitted shall so stipulate.

(iv) The Developer agrees, and shall cause its insurers and the insurers of its General Contractor and each subcontractor engaged after the date hereof in connection with the Project to agree, that all such insurers shall waive their rights of subrogation against the City.

(v) The limitations set forth in the indemnification provisions in Section 13 hereof, or any limitations on indemnities that may apply as a matter of law, shall in no way limit, reduce or otherwise affect the amounts or types of insurance required under this Agreement.

(vi) The Developer and not the City is responsible for meeting all of the insurance requirements under this Agreement and for the Project. Any insurance or self insurance programs maintained by the City shall apply in excess of and not contribute with insurance required to be provided by the Developer, General Contractor or any subcontractor under this Agreement.

Any and all deductibles or self-insured retentions on the required insurance coverages shall be borne by the Developer, General Contractor or subcontractor who is the insured under such policy, and shall not be borne by the City.

If the Developer, the General Contractor or any subcontractor desires additional coverage, higher limits of liability or other modifications for its own protection, such person or entity shall be responsible for the acquisition and cost of such additional protection.

(vii) The City of Chicago Risk Management Department maintains the right to modify or delete the insurance requirements set forth in this Agreement so long as such action does not, without the Developer's prior written consent, increase such requirements beyond that which is reasonably customary at such time.

### *Section 13.*

#### *Indemnification.*

The Developer agrees to indemnify, defend and hold the City harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses (including, without limitation,

reasonable attorneys' fees and court costs) suffered or incurred by the City arising from or in connection with (i) the Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement; or (ii) the Developer's or any contractor's failure to pay General Contractors, subcontractors or materialmen in connection with the T.I.F.-Funded Improvements or any other Project improvement; or (iii) the existence of any material misrepresentation or omission in this Agreement, any offering memorandum or the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by the Developer or its agents, employees, contractors or persons acting under the control or at the request of the Developer; or (iv) the Developer's failure to cure any misrepresentation in this Agreement or any other agreement relating hereto.

*Section 14.*

*Maintaining Records/Right To Inspect.*

14.01 Books And Records.

The Developer shall keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual cost of the Project and the disposition of all funds from whatever source allocated thereto, and to monitor the Project. All such books, records and other documents, including but not limited to the Developer's loan statements, 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.

Any authorized representative of the City shall have 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 Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer under this Agreement or any related agreement;

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

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

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

(e) the commencement of any proceedings in bankruptcy by or against the Developer or for the liquidation or reorganization of the Developer, or alleging that such 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 thirty (30) 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 thirty (30) days after the commencement thereof;

(g) prior to the issuance of a Certificate, the entry of any judgment or order against the Developer which remains unsatisfied or undischarged and in effect for thirty (30) 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) prior to issuance of a Certificate, the dissolution of the Developer or the death of any natural person who owns a material interest in the Developer; or

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

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 thirty-three percent (33%) of the Developer's issued and outstanding shares of stock.

#### 15.02 Remedies.

Upon the occurrence of an Event of Default, the City may terminate this Agreement and all related agreements, and may suspend disbursement of City Funds. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, secure injunctive relief or the specific performance of the agreements contained herein.

#### 15.03 Curative Period.

In the event the Developer shall fail to perform a monetary covenant which the Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless the Developer shall have failed to perform such monetary covenant within ten (10) days of its receipt of a written notice from the City specifying that it has failed to perform such monetary covenant. In the event the Developer shall fail to perform a non-monetary covenant, condition, promise or obligation which



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

*Section 16.*

*Mortgaging Of The Project.*

All mortgages currently in place with respect to the Project are listed on (Sub)Exhibit G hereto, including mortgages made in connection with Lender Financing. In the event that the Developer shall hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof, a mortgage(s) or deed(s) of trust (any such mortgage or deed of trust being hereinafter referred to as the "Mortgage" and the holder of the same being hereinafter referred to as the "Mortgagee"), then it is hereby agreed by and between the City and the Developer as follows:

(a) Prior to the issuance by the City to the Developer of a Certificate pursuant to Section 7 hereof, no such Mortgage shall be executed on the Facility without the prior written consent of the Commissioner of D.P.D., which shall not be unreasonably withheld.

(b) In the event that the Mortgagee or any other party shall succeed to the Developer's interest in the Property pursuant to the exercise of remedies under a 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 18.16 hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of the Developer hereunder; provided, however, that, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of the Developer's interest under this Agreement, such party shall have no liability under this Agreement for any Event of Default of the Developer which accrued prior to the time such party succeeded to the interest of the Developer under this Agreement, in which case the Developer shall be solely responsible. However, if such Mortgagee or other party succeeding

to the Developer's interest in the Property does not expressly accept an assignment of the Developer's interest hereunder, such party shall be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land.

*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 or facsimile mail, return receipt requested.

If To The City:

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

With Copies To:

City of Chicago  
Department of Law  
Finance and Economic  
Development Division  
Room 511  
121 North LaSalle Street  
Chicago, Illinois 60602

If To Developer:

Michael A. Tadin  
4450 South Morgan Street  
Chicago, Illinois 60609

With Copies To:

David A. Bonoma  
Shefsky Froelich & Devine Ltd.  
444 North Michigan Avenue  
Chicago, Illinois 60611

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 (sub)exhibits attached hereto may not be amended without the prior written consent of the City.

18.02 Entire Agreement.

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

18.03 Limitation Of Liability.

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

18.04 Further Assurances.

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

18.05 Waiver.

Waiver by the City or the Developer with respect to any breach of this

Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other default or with respect to any particular default, except to the extent specifically waived by the City or the Developer in writing.

#### 18.06 Remedies Cumulative.

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

#### 18.07 Disclaimer.

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

#### 18.08 Headings.

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

#### 18.09 Counterparts.

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

#### 18.10 Severability.

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

#### 18.11 Conflict.

In the event of a conflict between any provisions of this Agreement and the

provisions of the T.I.F. Ordinances and/or the T.I.F. Bond Ordinance, 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 or D.P.D., or any matter is to be to the City's or D.P.D.'s satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City or D.P.D. in writing and in its reasonable discretion.

#### 18.15 Assignment.

Prior to the issuance by the City to the Developer of a Certificate, the Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City. Notwithstanding the issuance of such Certificate, any successor in interest to the Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to Sections 8.19 (Conditional Provisions) and 8.20 (Survival of Covenants) hereof, for the Term of the Agreement. The Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

#### 18.16 Binding Effect.

This Agreement shall be binding upon the Developer and its successors and permitted assigns and shall inure to the benefit of the City, its successors and assigns.



18.17 Force Majeure.

For the purposes of any of the provisions of this Agreement, neither the City nor the Developer, as the case may be, 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 quantity 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 respective obligations hereunder.

[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.

Attest:

Marina Cartage, Inc.

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

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

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

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

Attest:

Lakeside Bank, as Trustee for Trust  
No. 10-1731

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

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

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

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

Michael A. Tadin

\_\_\_\_\_

City of Chicago

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

Commissioner,  
Department of Planning  
and Development

State of Illinois )  
                          ) SS:  
County of Cook )

I, \_\_\_\_\_, a notary public in and for the said county, in the state aforesaid, Do Hereby Certify that \_\_\_\_\_ and \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ and \_\_\_\_\_ of \_\_\_\_\_, an Illinois corporation (the "Corporation"), and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed, and delivered said instrument, pursuant to the authority given to them by the Board of Directors of the Corporation, as their free and voluntary act and as the free and voluntary act of the Corporation, for the uses and purposes therein set forth.

Given under my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 1996.

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

My commission expires \_\_\_\_\_.

[Seal]

State of Illinois )  
                          ) SS:  
County of Cook )

I, \_\_\_\_\_, a notary public in and for the said county, in the state aforesaid, Do Hereby Certify that J. F. Boyle, Jr., personally known to me to be the Commissioner of the Department of Planning and Development of the City of Chicago (the "City"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed, and delivered said instrument pursuant to the authority given to him by the City, as his free and voluntary act and as the free and voluntary act of the City, for the uses and purposes therein set forth.

Given under my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 1996.

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

My commission expires \_\_\_\_\_.

[Seal]

[(Sub)Exhibits "A", "D", "E", "F", "I" and "K" referred to in this Redevelopment Agreement unavailable at time of printing.]

(Sub)Exhibits "B", "C", "G", "H", "J" and "L" referred to in this Redevelopment Agreement read as follows:

*(Sub)Exhibit "B".*  
(To Redevelopment Agreement)

*Property.*

All of Lots 8, 9 and 10 and that part of the east half of Lot 14 lying south of the north line of said Lot 10 extended west all in Donovan Industrial Park, being a subdivision of part of each of Lots 3, 4, 5, 6, 7, 8, 9 and 10 in Stock Yards Subdivision of the east half of Section 5, Township 38 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

*(Sub)Exhibit "C".*  
(To Redevelopment Agreement)

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

Line Item	Cost
Land Acquisition	
Site Preparation	
Architectural and Engineering	

Line Item	Cost
Other Professional and Consulting Fees	
Legal/Survey	
Public Improvements	
Eligible Financing/Interest Costs	
<b>TOTAL:</b>	<b>\$1,135,972</b>

*(Sub)Exhibit "G".*  
(To Redevelopment Agreement)

*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].



(Sub)Exhibit "H".  
(To Redevelopment Agreement)

*Project Budget.*

Line Item	Cost
Land Acquisition	\$ 900,000
Excavation/Sitework	450,000
Construction	2,250,000
Parking Areas	200,000
Landscaping	50,000
Architectural and Engineering	73,750
Supervision	147,500
Other Professional and Consultant Fees	65,000
Legal/Survey	20,000
Contingency	88,875
Construction Interest	<u>298,763</u>
TOTAL:	\$4,543,888

(Sub)Exhibit "J".  
(To Redevelopment Agreement)

*Opinion Of Developer's Counsel.*

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

\_\_\_\_\_, 1993

City of Chicago  
121 North LaSalle Street  
Chicago, Illinois 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 \_\_\_\_\_ Redevelopment Project Area (the "Project"). In that capacity, we have examined, among other things, the following agreements, instruments and documents of even date herewith, hereinafter referred to as the "Documents":

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

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

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

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

In addition to the foregoing, we have examined:

(a) the original or certified, conformed or photostatic copies of the Developer's (i) Articles of Incorporation, as amended to date, (ii) qualifications to do business and certificates of good standing in all states in which the Developer is qualified to do business, (iii) Bylaws, as amended to date, and (iv) records of all corporate proceedings relating to the Project; and

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

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

Based on the foregoing, it is our opinion that:

1. The Developer is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation, has full power and authority to own and lease its properties and to carry on its business as presently conducted, and is in good standing and duly qualified to do business as a foreign corporation under the laws of every state in which the conduct of its affairs or the ownership of its assets requires such qualification, except for those states in which its failure to qualify to do business would not have a material adverse effect on it or its business.

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

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

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

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

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

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

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

9. The execution, delivery and performance of the Documents by the Developer have not and will not require the consent of any person or the giving of notice to, any exemption by, any registration, declaration or filing with or any taking of any other actions in respect of, any person,

including without limitation any court, government or regulatory authority.

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

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

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

This opinion is issued at the Developer's request for the benefit of the City, its counsel and purchasers of the City's Tax Increment Allocation Revenue Bonds (Stockyards Southeast Quadrant Industrial Redevelopment Project) Series 1994B, to finance the Project), and may not be disclosed to or relied upon by any other person.

Very truly yours,

\_\_\_\_\_

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

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

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



(Sub)Exhibit "L".  
(To Redevelopment Agreement)

*Conditional Provisions.*

Real Estate Provisions.

(a) Governmental Charges. The Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are assessed or imposed upon the Developer, the Property or the Project, or become due and payable, and which create, may create, or appear to create a lien upon the Developer or all or any portion of the Property or the Project. "Governmental Charge" shall mean all federal, state, county, city, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances relating to the Developer, the Property or the Project including but not limited to real estate taxes. The Developer shall have the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of the Property. The Developer's right to challenge real estate taxes applicable to the Property is limited as provided for in paragraph (b) below; provided, that such real estate taxes must be paid in full when due and may be disputed only after such payment is made. No such contest or objection shall be deemed or construed in any way as relieving, modifying or extending the Developer's covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless the Developer has given prior written notice to D.P.D. of the Developer's intent to contest or object to a Governmental Charge and, unless, at D.P.D.'s sole option, (i) the Developer shall demonstrate to D.P.D.'s satisfaction that legal proceedings instituted by the Developer contesting or objecting to a Governmental Charge shall conclusively operate to prevent a lien against or the sale or forfeiture of all or any part of the Property to satisfy such Governmental Charge prior to final determination of such proceedings and/or (ii) the Developer shall furnish a good and sufficient bond or other security satisfactory to D.P.D. in such form and amounts as D.P.D. shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property during the pendency of such contest, adequate to pay fully any such contested Governmental Charge and all interest and penalties upon the adverse determination of such contest. If the Developer fails to pay any Governmental Charge or to obtain discharge of the same, the Developer shall advise D.P.D. thereof in writing, at which time D.P.D. may, but shall not be obligated to, and without waiving or releasing any obligation or

liability of the Developer under this Agreement, in D.P.D.'s sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect thereto which D.P.D. deems advisable. All sums so paid by D.P.D., if any, and any expenses, if any, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be promptly disbursed to D.P.D. by the Developer. Notwithstanding anything contained herein to the contrary, this paragraph shall not be construed to obligate the City to pay any such Governmental Charge. Additionally, if the Developer fails to pay any Governmental Charge, the City, in its sole discretion, may require the Developer to submit to the City audited Financial Statements at the Developer's own expense.

(b) Real Estate Taxes.

(i) Acknowledgement of Real Estate Taxes. The Developer agrees that (A) for the purpose of this Agreement, the total projected minimum assessed value of the Property which is necessary to support the debt service indicated ("Minimum Assessed Value") is shown on (Sub)Exhibit K to the Agreement and incorporated herein by reference for the years noted on (Sub)Exhibit K; (B) (Sub)Exhibit K sets forth the specific improvements which will generate the fair market values, assessments, equalized assessed values and taxes shown thereon; and (C) the real estate taxes anticipated to be generated and derived from the respective portions of the Property and the Project for the years shown are fairly and accurately indicated in (Sub)Exhibit K.

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

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

(iv) No Objections. Neither the Developer nor any agent, representative, lessee, tenant, assignee, transferee or successor in interest to the Developer shall object to or in any way seek to interfere with, on procedural or any other grounds, the filing of any Underassessment Complaint or subsequent proceedings related thereto with the Cook County Assessor or with the Cook County Board of Appeals, by either the City or by any taxpayer. The term "Underassessment Complaint" as used

in this Agreement shall mean a complaint seeking to increase the assessed value of the Project.

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

(c) Insurance. In addition to the insurance required pursuant to Section 12 of the Agreement, the Developer shall procure and maintain the following insurance:

- (i) Prior to the execution and delivery of this Agreement and during construction of the Project, All Risk Property Insurance in the amount of this full replacement value of the Property.
- (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.

---

**AUTHORIZATION FOR ISSUANCE OF FREE PERMITS, LICENSE  
FEE EXEMPTIONS AND WAIVER OF FEES FOR CERTAIN  
CHARITABLE, EDUCATIONAL AND RELIGIOUS  
INSTITUTIONS.**

The Committee on Finance submitted the following report:

CHICAGO, February 7, 1996.

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