

REDEVELOPMENT AGREEMENT WITH COMMUNITY HOUSING PARTNERS X, L.P., CHICAGO COMMUNITY DEVELOPMENT CORPORATION AND THE VOICE OF THE PEOPLE IN UPTOWN, INC. FOR REHABILITATION OF PROPERTY AT 4416 -- 4426 N. CLIFTON AVE. AND 4416 -- 4422 N. MAGNOLIA AVE.

[O2010-1928]

The Committee on Finance submitted the following report:

CHICAGO, May 12, 2010.

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

Your Committee on Finance, having had under consideration an ordinance authorizing entering into and executing a redevelopment agreement with Community Housing Partners X, L.P., Chicago Community Development Corporation and the Voice of the People in Uptown, Inc., 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.

Alderman Edward M. Burke abstained from voting pursuant to Rule 14.

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 Moreno, Fioretti, Dowell, Hairston, Lyle, Harris, Beale, Pope, Balcer, Cárdenas, Olivo, Foulkes, Thompson, Thomas, Lane, Rugai, Cochran, Brookins, Muñoz, Zalewski, Dixon, Solis, Maldonado, Burnett, E. Smith, Graham, Reboyras, Suarez, Waguespack, Mell, Colón, Rice, Mitts, Allen, Laurino, O'Connor, Doherty, Reilly, Daley, Tunney, Levar, Shiller, Schulter, M. Smith, Moore, Stone -- 46.

*Nays* -- None.

Alderman Pope moved to reconsider the foregoing vote. The motion was lost.

Alderman Burke invoked Rule 14 of the City Council's Rules of Order and Procedure, disclosing that he had represented parties to this ordinance in previous and unrelated matters.

The following is said ordinance as passed:

WHEREAS, The City of Chicago ("City") is a home rule unit of government by virtue of the provisions of the Constitution of the State of Illinois of 1970 and, as such, may exercise any power and perform any function pertaining to its government; and

WHEREAS, Pursuant to an ordinance adopted by the City Council ("City Council") of the City on June 27, 2001 and published at pages 62342 through 62431 of the *Journal of the Proceedings of the City Council of the City of Chicago* (the "*Journal*") of such date, a certain redevelopment plan and project (the "Original Plan") for Wilson Yard Tax Increment Financing Redevelopment Project Area (the "Original Area") was approved pursuant to the Illinois Tax Increment Allocation Redevelopment Act, as amended (65 ILCS 5/11-74.4-1, et seq.) (the "Act"); and

WHEREAS, Pursuant to an ordinance adopted by the City Council on June 27, 2001, and published at pages 62433 through 62441 of the *Journal* of such date, the Original 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 June 27, 2001 and published at pages 62443 through 62451 of the *Journal* of such date, tax increment allocation financing was adopted pursuant to the Act as a means of financing certain Original Area redevelopment project costs (as defined in the Act) incurred pursuant to the Original Plan; and

WHEREAS, In accordance with the provisions of the Act, and pursuant to ordinances adopted (a) on November 18, 2009 and published at pages 74053 -- 74131 of the *Journal* of such date, and (b) on February 10, 2010 and published at pages 83890 -- 83990 of the *Journal* of such date, the City Council amended the Original Plan (the Original Plan, as amended, referred to herein as the "Plan") to, among other things, amend the boundaries of the Original Area (the Original Area, as amended, referred to herein as the "Area"); and

WHEREAS, Voice of the People in Uptown, Inc., an Illinois not-for-profit corporation ("V.O.P.") will acquire fee simple title to certain property located within the Area at 4416 -- 4426 North Clifton Avenue and 4416 -- 4422 North Magnolia Avenue in Chicago (the "Property"), which Property V.O.P. shall either sell or contribute to Community Housing Partners X, L.P., an Illinois limited partnership ("Partnership"), whose managing general partner is Chicago Community Development Corporation, an Illinois corporation ("C.C.D.C."), and together with the Partnership and V.O.P., referred to herein as the "Developer"); and

WHEREAS, The Developer shall rehabilitate the Property into fifty-nine (59) rental units for low-income families (the "Project"); and

WHEREAS, The Developer has proposed to undertake the redevelopment of the Property in accordance with the Plan and pursuant to the terms and conditions of a proposed redevelopment agreement to be executed by the Developer and the City, including but not

limited to the acquisition of the Property and construction of the Project, to be financed in part by Available Incremental Taxes (as defined below); and

WHEREAS, Pursuant to Resolution 10-CDC-13 adopted by the Community Development Commission of the City of Chicago (the "Commission") on February 9, 2010, the Commission authorized the City's Department of Community Development ("D.C.D.") to negotiate a redevelopment agreement with the Developer for the Project and to recommend that the Developer be designated as the developer for the Project; and

WHEREAS, In connection with the Project, the City shall waive those certain fees, if applicable, imposed by the City with respect to the Project and as more fully described in Exhibit A attached hereto. The Project shall be deemed to qualify as "Affordable Housing" for purposes of Chapter 16-18 of the Municipal Code of Chicago (the "Municipal Code"). Section 2-44-090 of the Municipal Code shall not apply to the Project or the Property.

WHEREAS, The Project is necessary for the redevelopment of the Area; 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 Developer is 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.C.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 B 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. The City Council of the City hereby finds that the City is authorized to issue its tax increment allocation revenue obligation in the maximum principal amount of Two Million Five Hundred Thousand Dollars (\$2,500,000) plus pay One Million Seven Hundred Sixty-five Thousand Dollars (\$1,765,000) from Incremental Taxes deposited in the General Account of the Fund (the "Excess Incremental Taxes") as the Initial Payment (as defined in the Redevelopment Agreement), to finance a portion of the eligible costs included within the Project.

SECTION 5. There shall be borrowed for and on behalf of the City a principal amount not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000) for the payment of a portion of the eligible redevelopment project costs (as such term is defined under the Act) included within the Project (such costs shall be known herein and in the Redevelopment Agreement as "T.I.F.-Funded Improvements"). The borrowing shall be evidenced by a note

of the City in the principal amount up to Two Million Five Hundred Thousand Dollars (\$2,500,000) designated "Tax Increment Allocation Revenue Note (Clifton Magnolia Apartments Redevelopment Project), Series "A" (the "City Note"). In addition, supported by a requisition form to the City from the Developer, the City is authorized to pay the Developer from Excess Incremental Taxes an amount up to One Million Seven Hundred Sixty-five Thousand Dollars (\$1,765,000) as the Initial Payment. The City Note shall be substantially in the form attached to the Redevelopment Agreement as Exhibit I and made a part hereof, with such additions or modifications as shall be determined to be necessary by the Authorized Officer (the person duly appointed and serving as the Chief Financial Officer of the City being referred to herein as an "Authorized Officer," or if there is no Chief Financial Officer, then the City Comptroller) of the City, at the time of issuance to reflect the purpose of the issue. The City Note shall be dated the date of delivery thereof, and shall also bear the date of authentication, shall be in fully registered form, shall be in the denomination of the outstanding principal amount thereof and shall become due and payable as provided therein. The proceeds of the City Note and the Initial Payment are hereby appropriated for the purposes set forth in this Section 5.

The City Note shall bear simple interest at an annual rate equal to the interest rate on the permanent loan constituting Lender Financing (as defined in the Redevelopment Agreement). Interest shall begin to accrue as of the date of issuance.

The principal of and interest on the City Note shall be paid by check, draft or wire transfer of funds by the City Comptroller of the City, as registrar and paying agent (the "Registrar"), payable in lawful money of the United States of America to the persons in whose names the City Note are registered at the close of business on the payment date, in any event no later than at the close of business on the fifteenth (15<sup>th</sup>) day of the month immediately after the applicable payment date; provided, that the final installment the principal and accrued but unpaid interest of the City Note shall be payable in lawful money of the United States of America at the principal office of the Registrar or as otherwise directed by the City on or before the maturity date.

The seal of the City shall be affixed to or a facsimile thereof printed on the City Note, and the City Note shall be signed by the manual or facsimile signature of the Mayor of the City and attested by the manual or facsimile signature of the City Clerk of the City, and in case any officer whose signature shall appear on the City Note shall cease to be such officer before the delivery of the City Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

The City Note shall have thereon a certificate of authentication substantially in the form hereinafter set forth duly executed by the Registrar, as authenticating agent of the City for the City Note, and showing the date of authentication. The City Note shall not be valid or obligatory for any purpose or be entitled to any security or benefit under this ordinance unless and until such certificate of authentication shall have been duly executed by the Registrar by manual signature, and such certificate of authentication upon the City Note shall be conclusive evidence that the City Note have been authenticated and delivered under this ordinance.

SECTION 6. The City shall cause books (the "Register") for the registration and for the transfer of the City Note (to the extent such transfer is permitted under the Redevelopment Agreement) as provided in this ordinance to be kept at the principal office of the Registrar, which is hereby constituted and appointed the registrar of the City for the City Note. The City is authorized to prepare, and the Registrar shall keep custody of, multiple City Note blanks executed by the City for use in the transfer of the City Note.

Upon surrender for a transfer of the City Note authorized under the Redevelopment Agreement at the principal office of the Registrar, duly endorsed by, or accompanied by (i) a written instrument or instruments of transfer in form satisfactory to the Registrar, (ii) an investment representation in form satisfactory to the City and duly executed by, the registered owner or his attorney duly authorized in writing, (iii) the written consent of the City evidenced by the signature of the Authorized Officer (or his or her designee) and the Commissioner on the instrument of transfer, and (iv) any deliveries required under the Redevelopment Agreement, the City shall execute and the Registrar shall authenticate, date and deliver in the name of any such authorized transferee or transferees a new fully registered City Note of the same maturity, of authorized denomination, for the authorized principal amount of the City Note less previous retirements. The execution by the City of a fully registered City Note shall constitute full and due authorization of the City Note and the Registrar shall thereby be authorized to authenticate, date and deliver the City Note. The Registrar shall not be required to transfer or exchange a City Note during the period beginning at the close of business on the fifteenth (15<sup>th</sup>) day of the month immediately prior to the maturity date of the City Note nor to transfer or exchange a City Note after notice calling a City Note for prepayment has been made, nor during a period of five (5) days next preceding mailing of a notice of prepayment of principal of a City Note. No beneficial interests in a City Note shall be assigned, except in accordance with the procedures for transferring a City Note described above.

The person in whose name the City Note shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of the principal of and interest, if any, on the City Note shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon the City Note to the extent of the sum or sums so paid.

No service charge shall be made for any transfer of the City Note, but the City or the Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer of the City Note.

SECTION 7. Subject to the limitations set forth herein, the Authorized Officer is authorized to determine the terms of the City Note and to issue the City Note on such terms as the Authorized Officer may deem to be in the best interest of the City. The principal of the City Note shall be subject to determination, reduction and prepayment as provided in the form of City Note attached to the Redevelopment Agreement as (Sub)Exhibit M and as provided in the Redevelopment Agreement, including, without limitation, Sections 4.03 and 15.02. As directed by the Authorized Officer, the Registrar shall proceed with prepayment without further notice or direction from the City. The Registrar shall note on the Payment Schedule attached to the City Note the amount of any payment of principal or interest on such City

Note, including the amount of any redemption or prepayment, and the amount of any reduction in principal pursuant to the Redevelopment Agreement.

SECTION 8. The City Note hereby authorized shall be executed as in this ordinance and the Redevelopment Agreement provided as soon after the passage hereof as may be practicable and consistent with the terms of the Redevelopment Agreement, and thereupon, be deposited with the Commissioner, and be by said Commissioner delivered to the Developer.

SECTION 9. The City Note is a special limited obligation of the City, and is payable solely from amounts on deposit in the Fund and shall be a valid claim of the registered owner thereof only against said sources. Payments on the City Note will be subject to the availability of Available Incremental Taxes in the Fund. The City Note shall not be deemed to constitute an indebtedness or a loan against the general taxing powers or credit of the City, within the meaning of any constitutional or statutory provision. The registered owner(s) of the City Note shall not have the right to compel any exercise of the taxing power of the City, the State of Illinois or any political subdivision thereof to pay the principal of or interest on the City Note. The City's obligation to fully repay the City Note is further limited by the terms and conditions of the Redevelopment Agreement.

SECTION 10. Monies on deposit in the Fund may be invested as allowed under Section 2-32-520 of the Municipal Code of the City of Chicago. Each such investment shall mature on a date prior to the date on which said amounts are needed to pay the principal of or interest on the City Note.

SECTION 11. Pursuant to the Redevelopment Agreement, the Developer shall complete the Project. The eligible redevelopment project costs of the Project constituting T.I.F.-Funded Improvements up to the principal amount of Two Million Five Hundred Thousand Dollars (\$2,500,000) shall be deemed to be a disbursement of the proceeds of the City Note. Upon issuance, the City Note shall have in the aggregate an initial principal balance equal to the Developer's prior expenditures for T.I.F.-Funded Improvements (excluding the Initial Payment) up to a maximum amount of Two Million Five Hundred Thousand Dollars (\$2,500,000) as supported by a Certificate of Expenditures in accordance with the City Note, and subject to the reductions described in the Redevelopment Agreement. After issuance, the principal amount outstanding under the City Note shall be the initial principal balance of the City Note, plus interest thereon, minus any principal amount and interest paid on the City Note and other reductions in principal as provided in the Redevelopment Agreement.

SECTION 12. The Registrar shall maintain a list of the names and addresses of the registered owners from time to time of the City Note and upon any transfer shall add the name and address of the new registered owner and eliminate the name and address of the transferor.

SECTION 13. The provisions of this ordinance shall constitute a contract between the City and the registered owner(s) of the City Note. All covenants relating to the City Note are enforceable by the registered owner(s) of the City Note.

SECTION 14. The Mayor, the Chief Financial Officer, the City Clerk, the Commissioner (or his or her designee) and the other officers of the City are authorized to execute and deliver on behalf of the City such other documents, agreements and certificates and to do such other things consistent with the terms of this ordinance as such officers and employees shall deem necessary or appropriate in order to effectuate the intent and purposes of this ordinance.

SECTION 15. 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 16. All ordinances, resolutions, motions or orders in conflict with this ordinance are hereby repealed to the extent of such conflict. No provision of the Municipal Code or violation of any provision of the Municipal Code shall be deemed to impair the validity of this ordinance or the instruments authorized by this ordinance or to impair the security for or payment of the instruments authorized by this ordinance; provided further, however, that the foregoing shall not be deemed to affect the availability of any other remedy or penalty for violation of any provision of the Municipal Code.

SECTION 17. This ordinance shall be in full force and effect immediately upon its passage.

Exhibits "A" and "B" referred to in this ordinance read as follows:

*Exhibit "A".*  
(To Ordinance)

*Fee Waivers.*

Department Of Construction And Permits.

Waiver of Plan Review, Permit and Inspection Fees:

A. Building Permit:

Zoning Construction/Architectural/Structural Internal Plumbing.

H.V.A.C.

Water for Construction.

Smoke Abatement.

B. Electrical Permit:

Service and Wiring.

C. Elevator Permit (if applicable).

D. Wrecking Permit (if applicable).

E. Fencing Permit (if applicable).

F. Fees for the review of building plans for compliance with accessibility codes by the Mayor's Office for People with Disabilities imposed by Section 13-32-310(2) of the Municipal Code of Chicago.

Department Of Water Management.

Tap Fees.

Cut and Seal Fees.

(Fees to purchase B-boxes and remote readouts are not waived.)

Permit (connection) and Inspection Fees.

Sealing Permit Fees.

Department Of Transportation.

Street Opening Fees.

Driveway Permit Fees.

Use of Public Way Fees.



*Exhibit "B".  
(To Ordinance)*

*Clifton Magnolia Apartments  
Redevelopment Agreement.*

This Clifton Magnolia Apartments Redevelopment Agreement (this "**Agreement**") is made as of this \_\_\_\_ day of \_\_\_\_\_, 2010, by and between the City of Chicago, an Illinois municipal corporation (the "**City**"), through its Department of Community Development ("**DCD**"), Community Housing Partners X L.P., an Illinois limited partnership ("**CHP**"), Chicago Community Development Corporation, an Illinois corporation ("**CCDC**"), and Voice of the People in Uptown, Inc., an Illinois not-for-profit corporation ("**VOP**" and collectively with CHP and CCDC, the "**Developer**").

**RECITALS**

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

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

**C. City Council Authority:** To induce redevelopment pursuant to the Act, the City Council of the City (the "**City Council**") adopted the following ordinances on June 27, 2001: (1) "Approval of Wilson Yard Redevelopment Project Area Tax Increment Finance Program Redevelopment Plan and Project;" (2) "Designation of Wilson Yard Redevelopment Project Area as a Redevelopment Project Area Pursuant to Tax Increment Allocation Redevelopment Act;" and (3) "Adoption of Tax Increment Allocation Financing for the Wilson Yard Redevelopment Project Area" (the "Original TIF Adoption Ordinance"), and subsequently amended the Original TIF Adoption Ordinance with ordinances adopted on November 18, 2009 and on February 10, 2010 (the "TIF Amendment Ordinances" and collectively with the Original TIF Adoption Ordinance, referred to herein as the "TIF Ordinances"). The redevelopment project area referred to above (the "**Redevelopment Area**") is legally described in Exhibit A hereto.

D. **The Project:** VOP intends to purchase (the "Acquisition"), and thereafter sell or contribute to CHP, certain property located within the Redevelopment Area at 4416-26 North Clifton and 4416-22 North Magnolia, all in Chicago, Illinois 60640 and legally described on **Exhibit B** hereto (the "Property"), and, within the time frames set forth in **Section 3.01** hereof, Developer shall commence and complete rehabilitation of 59 affordable multi-family rental units (the "Facility") thereon. The Facility and related improvements (including but not limited to those TIF-Funded Improvements as defined below and set forth on **Exhibit C**) are collectively referred to herein as the "Project." The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

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

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

In addition, the City may, in its discretion, issue tax increment allocation bonds ("TIF Bonds") secured by Incremental Taxes pursuant to a TIF bond ordinance (the "TIF Bond Ordinance") at a later date as described in **Section 4.03(d)** hereof, the proceeds of which (the "TIF Bond Proceeds") may be used to pay for the costs of the TIF-Funded Improvements not previously paid for from Incremental Taxes, or in order to reimburse the City for the costs of TIF-Funded Improvements.

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

## SECTION 1. RECITALS

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

## SECTION 2. DEFINITIONS

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

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

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

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

**"Annual Compliance Report"** shall mean a signed report from the Developer to the City (a) itemizing each of the Developer's obligations under this Agreement during the preceding calendar year, (b) certifying the Developer's compliance or noncompliance with such obligations, (c) attaching evidence (whether or not previously submitted to the City) of such compliance or noncompliance and (d) certifying that the Developer is not in default with respect to any provision of this Agreement, the agreements evidencing the Lender Financing, if any, or any related agreements; provided, that the obligations to be covered by the Annual Compliance Report shall include the following: (1) delivery of Financial Statements and unaudited financial statements (Section 8.08); (2) delivery of updated insurance certificates, if applicable (Section 8.13); (3) delivery of evidence of payment of Non-Governmental Charges, if applicable (Section 8.14); (4) delivery of evidence of compliance with the Affordable Housing Covenant (Section 8.19); and (5) compliance with all other executory provisions of this Agreement.

**"Available Incremental Taxes"** shall mean 95% of those Incremental Taxes deposited in the General Account of the Wilson Yard TIF Fund attributable to the taxes levied on the Redevelopment Area, to the extent available and subject to Prior TIF Obligations (as set forth on Exhibit M hereto), allocated by the City in each fiscal year for payment of the TIF-Funded Improvements.

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

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

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

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

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

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

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

**"Closing Date"** shall mean the date of execution and delivery of this Agreement by all parties hereto, which shall be deemed to be the date appearing in the first paragraph of this Agreement.

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

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

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

**"Environmental Laws"** shall mean any and all 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, including but not limited to the Municipal Code of Chicago, Sections 7-28-390, 7-28-440, 11-4-1410, 11-4-1420, 11-4-1450, 11-4-1500, 11-4-1530, 11-4-1550, or 11-4-1560.

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

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

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

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

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

**"FHA-Insured Loan"** means that certain mortgage loan, insured by The Federal Housing Administration under the National Housing Act, to Developer in connection with the Project.

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

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

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

"**HUD**" shall mean the United States Department of Housing and Urban Development.

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

"**Initial Payment**" shall have the meaning set forth in Section 4.03(b).

"**Lender Financing**" shall mean funds, including without limitation the FHA-Insured Loan, borrowed by the Developer from lenders and available to pay for Redevelopment Project Costs, in the amount set forth in **Section 4.01** hereof.

"**MBE(s)**" or minority-owned business enterprise 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 business enterprise.

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

"**MBE/WBE Program**" shall have the meaning set forth in **Section 10.03** hereof.

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

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

"**Note**" shall be the taxable City of Chicago Tax Increment Allocation Revenue Obligation Wilson Yard Redevelopment Project Area (Clifton Magnolia Apartments Redevelopment Project), Registered No. R-1 Taxable Series A to be in the form attached hereto as **Exhibit I** and otherwise in accordance with the terms set forth in **Section 4.03(b)**, in the maximum principal amount of \$2,500,000, subject to reduction as set forth in **Section 4.03** herein, issued by the City to the Developer as of the date of the Certificate. The payment of the amounts due under the Note will be secured only by Available Incremental Taxes, unless the City, in its sole discretion, elects to use other legally available funds to make payments with respect to the Note.

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

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

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

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

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

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

**"Qualified Investor"** means a qualified institutional buyer (QIB) or a registered investment company, or a trust where certificates of participation are sold to QIBs or registered investment companies.

**"Qualified Transfer of Note"** means (i) the pledge of the Note to a Lender providing Lender Financing or (ii) the sale or assignment of the Note as long as (a) any sale or assignment is to a Qualified Investor with no view to resale or reassignment, or the City has given its prior written consent to such proposed sale or assignment and (b) any sale or assignment is subject to the terms and procedures of an acceptable investment letter, and (c) any such sale or assignment occurs after the issuance of the Certificate.

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

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

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

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

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

**"Survey"** shall mean a Class A plat of survey in the most recently revised form of ALTA/ACSM land title survey of the Property dated within 45 days prior to the Closing Date, acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State of Illinois, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and updates thereof to reflect improvements to the Property in connection with the construction of the Facility and related improvements as required by the City or lender(s) providing Lender Financing).

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

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

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

**"TIF-Funded Improvements"** shall mean those improvements of the Project which (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Redevelopment Plan and (iii) the

City has agreed to pay for out of the City Funds, subject to the terms of this Agreement. **Exhibit C** lists the TIF-Funded Improvements for the Project.

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

**"Title Company"** shall mean Title Services, Inc.

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

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

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

**"Wilson Yard TIF Fund"** shall mean the special tax allocation fund created by the City in connection with the Redevelopment Area into which the Incremental Taxes will be deposited.

### SECTION 3. THE PROJECT

**3.01 The Project.** With respect to the Facility, the Developer shall, pursuant to the Plans and Specifications and subject to the provisions of **Section 18.17** hereof: (i) commence rehabilitation no later than June 31, 2010; and (ii) complete rehabilitation no later than September 30, 2011.

**3.02 Scope Drawings and Plans and Specifications.** The Developer has delivered the Scope Drawings and Plans and Specifications to DCD and DCD has approved same. After such initial approval, subsequent proposed changes to the Scope Drawings or Plans and Specifications shall be submitted to DCD as a Change Order pursuant to **Section 3.04** hereof. The Scope Drawings and Plans and Specifications shall at all times conform to the Redevelopment Plan as in effect on the date of this Agreement and all applicable federal, state and local laws, ordinances and regulations. The Developer shall submit all necessary documents to the City's Building Department, Department of Transportation and such other City departments or governmental authorities as may be necessary to acquire building permits and other required approvals for the Project.

**3.03 Project Budget.** The Developer has furnished to DCD, and DCD has approved, a Project Budget showing total costs for the Project in an amount not less than Seventeen Million Four Hundred Ten Thousand Four Hundred Forty-Two Dollars (\$17,410,442). The Developer hereby certifies to the City that (a) the City Funds, together with Lender Financing and Equity described in **Section 4.02** hereof, shall be sufficient to complete the Project; and (b) the Project Budget is true, correct and complete in all material respects. The Developer shall promptly deliver to DCD certified copies of any Change Orders with respect to the Project Budget for approval pursuant to **Section 3.04** hereof.

**3.04 Change Orders.** Except as provided below, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to material changes to the Project must be submitted by the Developer to DCD concurrently with the progress reports described in **Section 3.07** hereof; provided, that any Change Order relating to any of the following must be submitted by the Developer to DCD for DCD's prior written approval: (a) a reduction of more than 5% in the square footage of the Facility; (b) a change in the use of the Property to a use other than multi-family affordable rental units or in the number of rental units being constructed or rehabilitated; (c) a delay of more than 60 days in the completion of the Project; or (d) Change Orders costing more than \$25,000 each, to an aggregate amount of \$100,000. The Developer shall not authorize or permit the performance of any work relating to any Change Order or the furnishing of materials in connection therewith prior to the receipt by the Developer of DCD's written approval (to the extent required in this section). The Construction Contract, and each contract between the General Contractor and any subcontractor, shall contain a provision to this effect. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds which the City has pledged pursuant to this Agreement or provide any other additional assistance to the Developer. Notwithstanding anything to the contrary in this **Section 3.04**, Change Orders costing less than Twenty-Five Thousand Dollars (\$25,000.00) each, to an aggregate amount of One Hundred Thousand Dollars (\$100,000.00), do not require DCD's prior written approval as set forth in this **Section 3.04**, but DCD shall be notified in writing of all such Change Orders prior to the implementation thereof and the Developer, in connection with such notice, shall identify to DCD the source of funding therefor.

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

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

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

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



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

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

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

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

#### **SECTION 4. FINANCING**

**4.01 Total Project Cost and Sources of Funds.** The cost of the Project is estimated to be \$17,410,442, to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

Equity (subject to <b>Sections 4.03(b) and 4.06</b> )	\$ 6,324,040
Lender Financing	\$ 6,821,402
Estimated City Funds (subject to <b>Section 4.03</b> )	\$ 4,265,000
<b>ESTIMATED TOTAL</b>	<b>\$17,410,442</b>

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

#### **4.03 City Funds.**

(a) **Uses of City Funds.** City Funds may only be used to pay directly or reimburse the Developer for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs. **Exhibit C** sets forth, by line item, the TIF-Funded Improvements for the Project, and the maximum amount of costs that may be paid by or reimbursed from City Funds for each line item therein (subject to **Sections 4.03(b) and 4.05(d)**), contingent upon receipt by the City of documentation satisfactory in form and substance to DCD evidencing such cost and its eligibility as a Redevelopment Project Cost.

(b) **Sources of City Funds.** Subject to the terms and conditions of this Agreement, including but not limited to this **Section 4.03** and **Section 5** hereof, the City hereby agrees to provide City funds from the sources and in the amounts described directly below (the "City Funds") to pay for or

reimburse the Developer for the costs of the TIF-Funded Improvements:

(i) Initial Payment. The City will make an initial payment to VOP of One Million Seven Hundred Sixty-Five Thousand Dollars (\$1,765,000) (the "Initial Payment") on the Closing Date.

(ii) Note. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Section 5 hereof, the City hereby agrees to issue the Note to the Developer as of the date of the Certificate. The Initial Payment together with the principal amount of the Note shall not exceed the amount of TIF-Funded Improvements which have been incurred by the Developer and are to be reimbursed by the City through the Initial Payment and payments of principal and interest on the Note, subject to the provisions hereof; provided, however, that payments under the Note and the Initial Payment are subject to the amount of Available Incremental Taxes deposited into the Wilson Yard TIF Fund being sufficient for such payments; and provided further that the total principal amount of City Funds will be the lesser of \$4,265,000 or 25% of total Project costs. The Note will be used to reimburse the Developer for TIF-Funded Improvements incurred in the Project. From the date of issuance, the Note will be funded solely from Available Incremental Taxes. Interest on the Note will begin to accrue upon issuance.

(iii) Payments on the Note. The first payment with respect to the Note shall be made on the later to occur of April 1 of the year following issuance (from Available Incremental Taxes received by the City in the prior year) or two months after the City's receipt of a Requisition Form in accordance with Section 4.04. Thereafter, annual payments shall be made on the later to occur of April 1<sup>st</sup> of each subsequent calendar year or two months after the City's receipt of a Requisition Form. If, in any year, the City does not make such scheduled annual payment, then, in the next year (and if required, any subsequent years), Available Incremental Taxes shall (a) first be applied to repay any shortfall amounts, (b) next applied to make such year's scheduled annual principal and interest payment and (c) then applied to prepay the Note. The Note may be prepaid in whole or in part, without premium or penalty, at any time.

If the Developer defaults pursuant to Section 15.01, interest shall immediately cease to accrue on the Note effective as of the date on which the Event of Default is deemed to have occurred pursuant to Section 15.03, and no payments shall be made with respect to the Note during any cure period applicable to such default. Any Available Incremental Taxes that would have been used to make payments during such time period shall, however, be reserved by the City pending the possible cure of such default. If such default is cured, interest shall again begin to accrue on the Note effective as of the actual date on which the default is cured and any reserved payments of Available Incremental Taxes shall be released by the City and used to pay the Note. If such default is not cured or is not subject to a cure period, the City shall have the remedies set forth in Section 15.02.

(iv) Transfer of Note. After its issuance, the Developer may sell or pledge the Note pursuant to a Qualified Transfer. Notwithstanding any such permitted pledge, the City shall have no obligation to make any payments with respect to the Note except to the Developer, and then subject to the conditions set forth in this Agreement, including but not limited to Section 18.15, and in the Note.

(v) Cessation of Note Payments. If an Event of Default occurs (but subject to Section 15.03), the City shall have no further obligations to make any payments with respect to the Note and the City shall have the remedies set forth in Section 15.

(vi) Other Incremental Taxes. Any Incremental Taxes that either (a) are not Available Incremental Taxes or (b) are not required to make payments under this Agreement (whether because all currently due payments have been made, because of an Event of Default entitling the City to terminate further payments with respect to the Note, because of the full repayment of the Note, or otherwise) shall belong to the City and may be pledged or used for such purposes as the City deems necessary or appropriate.

**4.04 Construction Escrow; Requisition Form.** The City and the Developer hereby agree to enter into the Escrow Agreement. 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. The City must receive copies of any draw requests and related documents submitted to the Title Company for disbursements under the Escrow Agreement.

Prior to each December 1 and continuing annually thereafter, beginning with the year in which the Certificate is issued and continuing throughout the earlier of (i) the Term of the Agreement or (ii) the date that the Developer has been reimbursed in full under this Agreement, the Developer shall provide DCD with a Requisition Form, along with the documentation described therein. DCD shall retain the right to approve or reject any cost in the Project or in any Requisition Form as (i) a TIF-Funded Improvement or (ii) a part of the actual total Redevelopment Project Costs. Requisition for reimbursement of TIF-Funded Improvements shall be made not more than one time per calendar year (or as otherwise permitted by DCD). On each January 2 (or such other date as may be acceptable to the parties), beginning after the first Requisition Form is delivered to the City and continuing throughout the Term of the Agreement, the Developer shall meet with DCD at the request of DCD to discuss the Requisition Form(s) previously delivered.

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

(b) Allocation Among Line Items. Disbursements for expenditures related to TIF-Funded Improvements may be allocated to and charged against the appropriate line only, with transfers of costs and expenses from one line item to another, without the prior written consent of DCD, being prohibited; provided, however, that such transfers among line items, in an amount not to exceed \$50,000 or \$150,000 in the aggregate, may be made without the prior written consent of DCD.

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

**4.07 Preconditions of Execution of Certificate of Expenditure.** Prior to each execution of a Certificate of Expenditure by the City, the Developer shall submit documentation regarding the applicable expenditures to DCD, which shall be satisfactory to DCD in its sole discretion. Delivery by the Developer to DCD of any request for execution by the City of a Certificate of Expenditure hereunder shall, in addition to the items therein expressly set forth, constitute a certification to the City, as of the date of such request for execution of a Certificate of Expenditure, that:

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

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

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

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

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

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

(g) the Project is In Balance. The Project shall be deemed to be in balance ("**In Balance**") only if the total of the available Project funds equals or exceeds the aggregate of the amount necessary to pay all unpaid Project costs incurred or to be incurred in the completion of the Project. "**Available Project Funds**" as used herein shall mean: (i) the undisbursed City Funds; (ii) the undisbursed Lender Financing, if any; (iii) the undisbursed Equity and (iv) any other amounts deposited by the Developer pursuant to this Agreement. The Developer hereby agrees that, if the Project is not In Balance, the Developer shall, within 10 days after a written request by the City, deposit with the escrow agent or will make available (in a manner acceptable to the City), cash in an amount that will place the Project In Balance, which deposit shall first be exhausted before any further disbursement of the City Funds shall be made.

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

**4.08 Conditional Grant.** The City Funds being provided hereunder are being granted to Developer on a conditional basis, subject to the Developer's compliance with the provisions of this

Agreement. The City Funds are subject to being reimbursed if the Property, or any portion thereof, ceases to be utilized as affordable rental housing within 15 years following the date of the Certificate.

## SECTION 5. CONDITIONS PRECEDENT

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

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

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

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

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

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

**5.06 Evidence of Clean Title.** The Developer, at its own expense, has provided the City with searches under the names of CHP, CCDC, VOP (and the following trade names of the Developer: [None]) as follows:

Secretary of State	UCC search
Secretary of State	Federal tax search
Cook County Recorder	UCC search

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

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

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

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

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

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

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

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

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

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

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

## SECTION 6. AGREEMENTS WITH CONTRACTORS

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

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

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

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

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

## SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION

### 7.01 Certificate of Completion of Construction or Rehabilitation.

(a) Upon completion of the rehabilitation of the Project in accordance with the terms of this Agreement, and after final disbursement from the Escrow, and upon the Developer's written request, DCD shall issue to the Developer a Certificate in recordable form certifying that the Developer has fulfilled its obligation to complete the Project in accordance with the terms of this Agreement.

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

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

- (i) the Project, including all of the TIF-Funded Improvements, has been substantially completed; and
- ~~(ii) 80% of the 59 rental units have been leased; and~~
- (iii) Developer has provided DCD with evidence acceptable to DCD showing that Developer has complied with building permit requirements; and
- (iv) the City's monitoring unit has determined in writing that the Developer is in complete compliance with all requirements of Sections 8.09 and 10.

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

Those covenants specifically described at **Sections 8.02, 8.18 and 8.19** as covenants that run with the land are the only covenants in this Agreement intended to be binding upon any transferee of the Property (including an assignee as described in the following sentence) throughout the Term of the Agreement notwithstanding the issuance of a Certificate; provided, that upon the issuance of a Certificate, the covenants set forth in **Section 8.02** shall be deemed to have been fulfilled. The other executory terms of this Agreement that remain after the issuance of a Certificate shall be binding only upon the Developer or a permitted assignee of the Developer who, pursuant to **Section 18.15** of this Agreement, has contracted to take an assignment of the Developer's rights under this Agreement and assume the Developer's liabilities hereunder.



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

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

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

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

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

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

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

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

(b) CCDC is an Illinois corporation and managing general partner of CHP, duly organized, validly existing, qualified to do business in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

(c) VOP is an Illinois not-for-profit corporation and member of Voice Development Corporation, an Illinois not-for-profit corporation that is a co-general partner of CHP, duly organized, validly existing, qualified to do business in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

(d) each of CHP, CCDC and VOP has the right, power and authority to enter into, execute, deliver and perform this Agreement;

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

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

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

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

(i) 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;

(j) 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;

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

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

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

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

(o) neither the Developer nor any affiliate of the Developer is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the

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

**8.02 Covenant to Redevelop.** Upon DCD's approval of the Project Budget, the Scope Drawings and Plans and Specifications as provided in **Sections 3.02 and 3.03** hereof, and the Developer's receipt of all required building permits and governmental approvals, the Developer shall redevelop the Property in accordance with this Agreement and all Exhibits attached hereto, the TIF Ordinances, the Scope Drawings, Plans and Specifications, Project Budget and all amendments thereto, and all federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project, the Property and/or the Developer. The covenants set forth in this Section shall run with the land and be binding upon any transferee, but shall be deemed satisfied upon issuance by the City of a Certificate with respect thereto.

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

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

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

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

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

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

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

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

**8.12 Financial Statements.** The Developer shall obtain and provide to DCD Financial Statements for the Developer's fiscal year ended December 31, 2005 and each year thereafter for the Term of the Agreement. In addition, the Developer shall submit unaudited financial statements as soon as reasonably practical following the close of each fiscal year and for such other periods as DCD may request.

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

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

request, official receipts from the appropriate entity, or other proof satisfactory to DCD, evidencing payment of the Non-Governmental Charge in question.

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

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

(ii) at DCD's sole option, to furnish a good and sufficient bond or other security satisfactory to DCD in such form and amounts as DCD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property or any portion thereof or any fixtures that are or may be attached thereto, during the pendency of such contest, adequate to pay fully any such contested Non-Governmental Charge and all interest and penalties upon the adverse determination of such contest.

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

**8.16 Compliance with Laws**. To the best of the Developer's knowledge, after diligent inquiry, the Property and the Project are and shall be in compliance with all applicable 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 exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed against the Property on the date hereof in the conveyance and real property records of the county in which the Project is located. This Agreement shall be recorded prior to any mortgage made in connection with Lender Financing. The Developer shall pay all fees and charges incurred in connection with any such recording. Upon recording, the Developer shall immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

**8.18 Real Estate Provisions**.

(a) Governmental Charges.

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

the Project. "Governmental Charge" shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances (except for those assessed by foreign nations, states other than the State of Illinois, counties of the State other than Cook County, and municipalities other than the City) relating to the Developer, the Property or the Project including but not limited to real estate taxes.

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

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

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

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

(c) Real Estate Taxes.

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

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

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

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

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

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

- (a) The Facility shall be operated and maintained solely as residential rental housing;
- (b) All of the units in the Facility shall be available for occupancy to and be occupied solely by one or more persons qualifying as Low Income Families (as defined below) upon initial occupancy; and
- (c) All of the units in the Facility has monthly rents not in excess of thirty percent (30%) of the maximum allowable income for a Low Income Family (with the applicable Family size for such units determined in accordance with the rules specified in Section 42(g)(2) of the Internal Revenue Code of 1986, as amended); provided, however, that for any unit occupied by a Family (as defined below) that no longer qualifies as a Low Income Family due to an increase in such Family's income since the date of its initial occupancy of such unit, the maximum monthly rent for such unit shall not exceed thirty percent (30%) of such Family's monthly income.
- (d) As used in this **Section 8.19**, the following terms has the following meanings:
- (i) "Family" shall mean one or more individuals, whether or not related by blood or marriage; and
- (ii) "Low Income Families" shall mean Families whose annual income does not exceed sixty percent (60%) of the Chicago-area median income, adjusted for Family size, as such annual income and Chicago-area median income are determined from time to time by the United States Department of Housing and Urban Development; and thereafter such income limits shall apply to this definition.
- (e) The covenants set forth in this **Section 8.19** shall run with the land and be binding upon any transferee.
- (f) The City and the Developer may enter into a separate agreement to implement the provisions of this **Section 8.19**.

**8.20 Annual Compliance Report.** Beginning with the issuance of the Certificate and continuing throughout the Term of the Agreement, the Developer shall submit to DCD the Annual Compliance Report within 30 days after the end of the calendar year to which the Annual Compliance Report relates.

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

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

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

**9.02 Survival of Covenants.** All warranties, representations, and covenants of the City contained in this **Section 9** or elsewhere in this Agreement shall be true, accurate, and complete at



the time of the City's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and be in effect throughout the Term of the Agreement.

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

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

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

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

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

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

(e) Each Employer shall include the foregoing provisions of subparagraphs (a) through (d) in every contract entered into in connection with the Project, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any

Affiliate operating on the Property, so that each such provision shall be binding upon each contractor, subcontractor or Affiliate, as the case may be.

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

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

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

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

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

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

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

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

Good faith efforts on the part of the Developer, the General Contractor and each subcontractor to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Chief

Procurement Officer) shall not suffice to replace the actual, verified achievement of the requirements of this Section concerning the worker hours performed by actual Chicago residents.

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

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

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

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

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

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

(b) For purposes of this Section 10.03 only, the Developer (and any party to whom a contract is let by the Developer in connection with the Project) shall be deemed a "contractor" and this Agreement (and any contract let by the Developer in connection with the Project) shall be

deemed a "contract" or a "construction contract" as such terms are defined in Sections 2-92-420 and 2-92-670, Municipal Code of Chicago, as applicable.

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

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

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

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

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

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

### SECTION 11. ENVIRONMENTAL MATTERS

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

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

### SECTION 12. INSURANCE

The Developer shall procure and maintain, or cause to be maintained, at its sole cost and expense, at all times throughout the Term of the 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, any contractor or subcontractor:

- (a) Prior to Execution and Delivery of this Agreement: At least 10 business days prior to the execution of this Agreement, the Developer shall procure and maintain the following kinds and amounts of insurance:
  - (i) Workers' Compensation and Occupational Disease Insurance

Workers' Compensation and Occupational Disease Insurance, in statutory amounts, covering all employees who are to provide a service under this Agreement. Employer's liability coverage with limits of not less than \$100,000.00 for each accident or illness shall be included.

(ii) Commercial Liability Insurance (Primary and Umbrella)

Commercial Liability Insurance or equivalent with limits of not less than \$1,000,000.00 per occurrence, combined single limit, for bodily injury, personal injury and property damage liability. Products/completed operations, independent contractors, broad form property damage and contractual liability coverages are to be included.

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

(i) Workers' Compensation and Occupational Disease Insurance

Workers' Compensation and Occupational Disease Insurance, in statutory amounts, covering all employees who are to provide a service under or in connection with this Agreement. Employer's liability coverage with limits of not less than \$100,000.00 for each accident or illness shall be included.

(ii) Commercial Liability Insurance (Primary and Umbrella)

Commercial Liability Insurance or equivalent with limits of not less than \$2,000,000.00 per occurrence, combined single limit, for bodily injury, personal injury and property damage liability. Products/completed operations, explosion, collapse, underground, independent contractors, broad form property damage and contractual liability coverages are to be included.

(iii) Automobile Liability Insurance

When any motor vehicles are used in connection with work to be performed in connection with this Agreement, the Developer shall provide Automobile Liability Insurance with limits of not less than \$1,000,000.00 per occurrence combined single limit, for bodily injury and property damage.

(iv) All Risk Builders Risk Insurance

When the Developer, any contractor or subcontractor undertakes any construction, including improvements, betterments, and/or repairs, Developer, such contractor or 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 facilities. Coverage extensions shall include boiler and machinery, and flood.

(v) Professional Liability

When any architects, engineers or consulting firms perform work in connection with this Agreement, Professional Liability insurance shall be maintained with limits of \$1,000,000.00. The policy shall have an extended reporting period of two years. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Project.

(c) Other Provisions

Upon DCD's request, the Developer shall provide DCD with copies of insurance policies or certificates evidencing the coverage specified above. If the Developer fails to obtain or maintain any of the insurance policies required under this Agreement or to pay any insurance policies required under this Agreement, or to pay any premium in whole or in part when due, the City may (without waiving or releasing any obligation or Event of Default by the Developer hereunder) obtain and maintain such insurance policies and take any other action which the City deems advisable to protect its interest in the Property and/or the Project. All sums so disbursed by the City including reasonable attorneys' fees, court costs and expenses, shall be reimbursed by the Developer upon demand by the City.

The Developer agrees, and shall cause each contractor and subcontractor to agree, that any insurance coverages and limits furnished by the Developer and such contractors or subcontractors shall in no way limit the Developer's liabilities and responsibilities specified under this Agreement or any related documents or by law, or such contractor's or subcontractor's liabilities and responsibilities specified under any related documents or by law. The Developer shall require all contractors and subcontractors to carry the insurance required herein, or the Developer may provide the coverage for any or all contractors and subcontractors, and if so, the evidence of insurance submitted shall so stipulate.

The Developer agrees, and shall cause its insurers and the insurers of each contractor and 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.

The Developer 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 transport of Hazardous Materials.

The City maintains the right to modify, delete, alter or change the provisions of this **Section 12** and so long as such action does not, without the Developer's prior written consent, increase the requirements set forth in this **Section 12** beyond that which is reasonably customary at such time.

### SECTION 13. INDEMNIFICATION

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

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

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

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

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

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

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

#### **SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT**

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

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



**SECTION 15. DEFAULT AND REMEDIES**

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

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

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

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

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

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

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

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

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

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

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

(k) prior to the issuance of the Certificate, the sale or transfer of a majority of the ownership interests of the Developer without the prior written consent of the City, provided, however, the respective interests of Developer's administrative limited partner and Developer's investor limited partner shall be transferable to any affiliate of Alliant Capital, Ltd. without the consent of the City.

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

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

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

## SECTION 16. MORTGAGING OF THE PROJECT

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

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

(b) In the event that any mortgagee shall succeed to the Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under an Existing Mortgage or a Permitted Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of the Developer's interest hereunder in accordance with **Section 18.15** hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to the Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "the Developer" hereunder; provided, however, that, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of the Developer's interest under this Agreement, such party has no liability under this Agreement for any Event of Default of the Developer which accrued prior to the time such party succeeded to the interest of the Developer under this Agreement, in which case the Developer shall be solely responsible. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of the Developer's interest hereunder, such party shall be entitled to no rights and benefits under this Agreement, and such party shall be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land.

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

#### SECTION 17. NOTICE

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

If to the City:

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

With Copies To:

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

If to the Developer:           Community Housing Partners X L.P.  
  c/o Chicago Community Development Corporation  
  36 S. Wabash, Suite 1310  
  Chicago, Illinois 60603  
  Attention: President

  Chicago Community Development Corporation  
  36 S. Wabash, Suite 1310  
  Chicago, Illinois 60603  
  Attention: President

  Voice of the People in Uptown, Inc.  
  4861 N. Kenmore Ave.  
  Chicago, IL 60640  
  Attention: Executive Director

With Copies To:                Duane Morris, LLP  
  190 S. LaSalle St.  
  Suite 3700  
  Chicago, IL 60603  
  Attention: Douglas J. Antonio, Esq.

And to:                            Miner, Barnhill & Galland, P.C.  
  14 West Erie Street  
  Chicago, IL 60610  
  Attention: William Miceli, Esq.

And to:                            Alliant Asset Management Company, LLC  
  21600 Oxnard Street, Suite 1200  
  Woodland Hills, CA 91367  
  Attention: Shawn Horwitz

And to:                            [FHA-Insured Loan Lender]

  \_\_\_\_\_

  \_\_\_\_\_

  Attention:

And to:                            U.S. Department of Housing and Urban Development  
  Chicago Regional Office, Region V  
  77 West Jackson Boulevard  
  Chicago, Illinois 60604  
  Attention: Director of Multifamily Housing  
  HUD Project No: \_\_\_\_\_

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

**SECTION 18. MISCELLANEOUS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**18.15 Assignment.** The Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City. Any successor in interest to the Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to **Sections 8.18** (Real Estate Provisions) and **8.20** (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, the City and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of the Developer, the City and their respective successors and permitted assigns (as provided herein). Except as otherwise provided herein, this Agreement shall not run to the benefit of, or be enforceable by, any person or entity other than a party to this Agreement and its successors and permitted assigns. This Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right.

**18.17 Force Majeure.** Neither the City nor the Developer nor any successor in interest to either of them shall be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder.

The individual or entity relying on this section with respect to any such delay shall, upon the occurrence of the event causing such delay, immediately give written notice to the other parties to this Agreement. The individual or entity relying on this section with respect to any such delay may rely on this section only to the extent of the actual number of days of delay effected by any such events described above.

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

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

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

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

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

**18.23 HUD Rider.** The document entitled "HUD-Required Provisions Rider" attached hereto is hereby incorporated into this Agreement as if fully set forth herein and shall remain a part of this

Agreement so long as the Secretary of HUD or his/her successors or assigns, are the insurers or holders of the Mortgage Note (as defined in the HUD-Required Provisions Rider). Upon such time as HUD is no longer the insurer or holder of the Mortgage Note or such time as the Mortgage Note is paid in full, the parties hereto agree that the HUD-Required Provisions Rider shall no longer be a part of this Agreement.

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.

**VOICE OF THE PEOPLE IN UPTOWN, INC.,**  
an Illinois not-for-profit corporation

By: \_\_\_\_\_  
Frank S. Alschuler, President

**COMMUNITY HOUSING PARTNERS X, L.P.,**  
an Illinois limited partnership

By: Chicago Community Development Corporation, an Illinois corporation, its Managing General Partner

By: \_\_\_\_\_  
Anthony J. Fusco, Jr., President

**CHICAGO COMMUNITY DEVELOPMENT CORPORATION,**  
an Illinois corporation

By: \_\_\_\_\_  
Anthony J. Fusco, Jr., President

**CITY OF CHICAGO**

By: \_\_\_\_\_  
Christine Raguso, Acting Commissioner,  
Department of Community 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 Frank S. Alschuler, personally known to me to be the President of Voice of the People in Uptown, an Illinois not-for-profit corporation ("VOP"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the Board of Directors of VOP, as his/her free and voluntary act and as the free and voluntary act of VOP, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this \_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
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 Anthony J. Fusco, Jr., personally known to me to be the President of Chicago Community Development Corporation, an Illinois corporation ("CCDC"), managing general partner of Community Housing Partners X L.P., an Illinois limited partnership ("CHP"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the Board of Directors of CCDC, as his/her free and voluntary act and as the free and voluntary act of the CHP, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this \_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
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 Anthony J. Fusco, Jr., personally known to me to be the President of Chicago Community Development Corporation, an Illinois corporation ("CCDC"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument, pursuant to the authority given to him/her by the Board of Directors of CCDC, as his/her free and voluntary act and as the free and voluntary act of CCDC, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this \_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
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 Christine Raguso, personally known to me to be the Acting Commissioner of the Department of Community Development of the City of Chicago (the "City"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed, and delivered said instrument pursuant to the authority given to him/her by the City, as his/her free and voluntary act and as the free and voluntary act of the City, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this \_\_\_ day of \_\_\_\_\_, 2010.

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

My Commission Expires \_\_\_\_\_

[(Sub)Exhibits "A", "D", "E", "F", "H-1", "H-2", "J", "L" and "M" and H.U.R.-Required Provisions Rider referred to in this Clifton Magnolia Apartments Redevelopment Agreement unavailable at time of printing.]

(Sub)Exhibits "B", "C", "G", "I", "K" and "N" referred to in this Clifton Magnolia Apartments Redevelopment Agreement read as follows:

(Sub)Exhibit "B".  
(To Clifton Magnolia Apartments Redevelopment Agreement)

*Property Legal Description.*

Parcel 1:

Legal Description:

---

---

---

Permanent Index Number:

14-17-224-016.

Address:

4416 -- 4426 North Clifton Avenue.

Parcel 2:

Legal Description:

---

---

---

Permanent Index Number:

14-17-124-016.

Address:

4416 -- 4422 North Magnolia Avenue.

(Sub)Exhibit "C".  
(To Clifton Magnolia Apartments Redevelopment Agreement)

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

Line Item	Cost
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

(Sub)Exhibit "G".  
(To Clifton Magnolia Apartments 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:

None.

(Sub)Exhibit "I".  
(To Clifton Magnolia Apartments Redevelopment Agreement)

*Form of Note.*

Form of Note for up to a maximum amount of Two Million Five Hundred Thousand Dollars (\$2,500,000) and related Certificate of Expenditure read as follows:

Certificate Of Expenditure.

\_\_\_\_\_, 20\_\_

To: Registered Owner

Re: City of Chicago, Cook County, Illinois (the "City")  
\$2,500,000 Tax Increment Allocation Revenue Note  
(Clifton Magnolia Apartments Redevelopment Project),  
Taxable Series A (the "Note")

This Certificate is submitted to you, as Registered Owner of Note, pursuant to the Ordinance of the City authorizing the execution of the Note adopted by the City Council of the City on \_\_\_\_\_, 2010 (the "Ordinance"). All terms used herein shall have the same meanings as when used in the Ordinance.

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

In Witness Whereof, The City has caused this Certificate to be signed on its behalf as of \_\_\_\_\_.

City of Chicago

By: \_\_\_\_\_,  
\_\_\_\_\_  
Commissioner,  
Department of Community Development

Authenticated By:

\_\_\_\_\_  
Registrar

Registered  
Number R-1

Maximum Amount  
Not to Exceed  
\$2,500,000

United States Of America

State Of Illinois

County Of Cook

City Of Chicago

Tax Increment Allocation Revenue Note  
(Clifton Magnolia Apartments Redevelopment Project)  
Taxable Series A.

Registered Owner: Community Housing Partners X, L.P., an Illinois limited partnership

Interest Rate: \_\_\_\_\_% per annum [equal to permanent lender interest rate] (but not more than 9%)

Maturity Date: December 31, 2023 [one year following expiration of T.I.F. area]

Know All Persons By These Presents, That the City of Chicago, Cook County, Illinois (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns as hereinafter provided, on or before the Maturity Date identified above, but solely from the sources hereinafter identified, the principal amount of this Note from time to time advanced by the Registered Owner to pay costs of the Project (as hereafter defined) in accordance with the Ordinance hereinafter referred to up to the principal amount of Two Million Five Hundred Thousand Dollars (\$2,500,000) and to pay the Registered Owner or registered assigns interest on that amount at the Interest Rate per year specified above from the date of the advance. Interest shall be computed on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30) day months. Interest on accrued but unpaid interest on this Note shall accrue at the Interest Rate per year specified above. Principal of and interest on this Note are payable on or before April 1<sup>st</sup> of each year from a percentage of Available Incremental Taxes as provided in the Redevelopment Agreement (hereinafter defined), to be applied first to accrued and unpaid interest and the balance to principal.

The principal of and interest on this Note are payable in lawful money of the United States of America, and shall be made to the Registered Owner hereof as shown on the registration books of the City maintained by the Comptroller of the City, as registrar and paying agent (the "Registrar"), at the close of business on the fifteenth (15<sup>th</sup>) day of the month immediately prior to the applicable payment, maturity or redemption date, and shall be paid by check or draft

of the Registrar, payable in lawful money of the United States of America, mailed to the address of such Registered Owner as it appears on such registration books or at such other address furnished in writing by such Registered Owner to the Registrar; provided, that the final installment of principal and accrued but unpaid interest will be payable solely upon presentation of this Note at the principal office of the Registrar in Chicago, Illinois or as otherwise directed by the City.

This Note is issued by the City in fully registered form in the aggregate principal amount of advances made from time to time by Community Housing Partners X, L.P., an Illinois limited partnership (the "Developer"), of up to Two Million Five Hundred Thousand Dollars (\$2,500,000) for the purpose of paying the costs of certain eligible redevelopment project costs incurred by Developer in connection with the redevelopment of property in the Wilson Yard Redevelopment Project Area (the "Project Area") in the City, with such redevelopment work and related construction being defined as the "Project", all in accordance with the Constitution and the laws of the State of Illinois, and particularly the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-1, et seq.) as amended (the "T.I.F. Act"), the Local Government Debt Reform Act (30 ILCS 350/1, et seq.) as amended and an Ordinance adopted by the City Council of the City on \_\_\_\_\_, 2010 (the "Ordinance"), in all respects as by law required.

The City has assigned and pledged certain rights, title and interest of the City in and to certain incremental ad valorem tax revenues from the Project Area which the City is entitled to receive pursuant to the T.I.F. Act and the Ordinance, in order to pay the principal of and interest on the Note. The revenues so pledged are described in the Redevelopment Agreement (hereinafter defined) as: "Available Incremental Taxes". Reference is hereby made to the aforesaid Ordinance for a description, among others, with respect to the determination, custody and application of said revenues, the nature and extent of such security with respect to the Note and the terms and conditions under which the Note is issued and secured. This Note Is Not A General Or Moral Obligation Of The City But Is A Special Limited Obligation Of The City, And Is Payable Solely From The Available Incremental Taxes, And Shall Be A Valid Claim Of The Registered Owner Hereof Only Against Said Sources. This Note Shall Not Be Deemed To Constitute An Indebtedness Or A Loan Against The General Taxing Powers Or Credit Of The City, Within The Meaning Of Any Constitutional Or Statutory Provision. The Registered Owner Of This Note Shall Not Have The Right To Compel Any Exercise Of The Taxing Power Of The City, The State Of Illinois Or Any Political Subdivision Thereof To Pay The Principal Of Or Interest On This Note.

The principal of this Note is subject to prepayment and redemption at any time without premium or penalty.

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

amount will be issued to the transferee in exchange herefor. The Registrar shall not be required to transfer this Note during the period beginning at the close of business on the fifteenth (15<sup>th</sup>) day of the month immediately prior to the maturity date of this Note nor to transfer this Note after notice calling this Note or a portion hereof for prepayment or redemption has been mailed, nor during a period of five (5) days next preceding mailing of a notice of prepayment or redemption of this Note. Such transfer shall be in accordance with the form at the end of this Note.

This Note hereby authorized shall be executed and delivered as the Ordinance and the Redevelopment Agreement provide. Pursuant to the Redevelopment Agreement dated as of \_\_\_\_\_, 2010 (the "Redevelopment Agreement") between the City and Developer, Developer has agreed to construct or rehabilitate the Project and to advance funds for the incursion under the T.I.F. Act of certain eligible redevelopment project costs related to the Project. Such costs up to the amount of Two Million Five Hundred Thousand Dollars (\$2,500,000) shall be deemed to be a disbursement of the proceeds of this Note, and the outstanding principal amount of this Note shall be increased by the amount of each such advance from time to time. The principal amount outstanding of this Note shall be the sum of advances made pursuant to certificates of expenditure ("Certificates of Expenditure") executed by the City in accordance with the Redevelopment Agreement, minus any principal amount paid on this Note. The City shall not execute Certificates of Expenditure with respect to this Note that total in excess of Two Million Five Hundred Thousand Dollars (\$2,500,000). The principal amount of this Note may be reduced as provided in the Redevelopment Agreement.

Pursuant to Sections 4.03, 4.05 and 15.02 of the Redevelopment Agreement, the City has reserved the right to terminate and suspend payments of principal of and interest on this Note upon the occurrence and continuance of certain events, as described in the Redevelopment Agreement. Such right shall survive any transfer of this Note by the Registered Owner.

The City and the Registrar may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and for all other purposes and neither the City nor the Registrar shall be affected by any notice to the contrary, unless transferred in accordance with the provisions hereof.

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

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



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

\_\_\_\_\_  
Mayor

[Seal]

Attest:

\_\_\_\_\_  
City Clerk

Certificate  
Of  
Authentication

Registrar and Paying Agent:  
Comptroller of the  
City of Chicago,  
Cook County, Illinois

This Note is described in the within mentioned Ordinance and is the \$2,500,000 Tax Increment Allocation Revenue Note (Clifton Magnolia Apartments Redevelopment Project), Taxable Series A, of the City of Chicago, Cook County, Illinois.

\_\_\_\_\_  
Comptroller

Date: \_\_\_\_\_

\$2,500,000  
Note Debt Service Schedule.

(Assignment)

For Value Received, The undersigned sells, assigns and transfers unto \_\_\_\_\_  
the within Note and does hereby irrevocably constitute and appoint \_\_\_\_\_  
attorney to transfer the said Note on the books kept for registration thereof with full power of  
substitution in the premises.

Dated: \_\_\_\_\_  
Registered Owner

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

Signature Guaranteed: \_\_\_\_\_

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

Consented to as of: \_\_\_\_\_

City of Chicago, Illinois

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

Title: \_\_\_\_\_, Department  
of Community Development

*(Sub)Exhibit "K".*

(To Clifton Magnolia Apartments Redevelopment Agreement)

*Opinion Of Developer's Counsel.*

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

\_\_\_\_\_

City of Chicago  
121 North LaSalle Street  
Chicago, Illinois 60602

Attention: Corporation Counsel

Ladies and Gentlemen:

We have acted as counsel to \_\_\_\_\_, an [Illinois] \_\_\_\_\_ (the "Developer"), in connection with the purchase of certain land and the construction of certain facilities thereon located in the \_\_\_\_\_ Redevelopment Project Area (the "Project"). In that capacity, we have examined, among other things, the following agreements, instruments and documents of even date herewith, hereinafter referred to as the "Documents":

(a) \_\_\_\_\_ Redevelopment Agreement (the "Agreement") of even date herewith, executed by 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 [revise if the Developer is not a corporation]; and

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

In all such examinations, we have assumed the genuineness of all signatures (other than those of 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] [organization], has full power and authority to own and lease its properties and to carry on its business as presently conducted, and is in good standing and duly qualified to do business as a foreign [corporation] [entity] under the laws of every state in which the conduct of its affairs or the ownership of its assets requires such qualification, except for those states in which its failure to qualify to do business would not have a material adverse effect on it or its business.

2. 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] [describe any formation documents if the Developer is not a corporation] or result in a breach or other violation of any of the terms, conditions or provisions of any law or regulation, order, writ, injunction or decree of any court, government or regulatory authority, or, to the best of our knowledge after diligent inquiry, any of the terms, conditions or provisions of any agreement, instrument or document to which 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 liens or security interests in favor of the lender providing Lender Financing (as defined in the Agreement).

3. The execution and delivery of each Document and the performance of the transactions contemplated thereby have been duly authorized and approved by all requisite action on the part of 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 carriers permits, authorizations and other rights that are necessary for the operation of its business.

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

We are attorneys admitted to practice in the State of Illinois and we express no opinion as to any laws other than the 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 and its counsel, and may not be disclosed to or relied upon by any other person.

Very truly yours,

\_\_\_\_\_

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

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

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

*(Sub)Exhibit "N".*

(To Clifton Magnolia Apartments Redevelopment Agreement)

*Requisition Form.*

State of Illinois )  
                          ) SS.  
County of Cook )

The affiant, \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ (the "Developer"), hereby certifies that with respect to that certain \_\_\_\_\_ Redevelopment Agreement between the Developer and the City of Chicago dated \_\_\_\_\_, \_\_\_\_\_ (the "Agreement");

A. Expenditures for the Project, in the total amount of \$ \_\_\_\_\_, have been made.

B. This paragraph B sets forth and is a true and complete statement of all costs of T.I.F.-Funded Improvements for the Project reimbursed by the City to date:

\$ \_\_\_\_\_

C. The Developer requests reimbursement for the following cost of T.I.F.-Funded Improvements:

\$ \_\_\_\_\_

D. None of the costs referenced in paragraph C above have been previously reimbursed by the City.

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

1. Except as described in the attached certificate, the representations and warranties contained in the Agreement are true and correct and the Developer is in compliance with all applicable covenants contained herein.

2. No Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default, exists or has occurred.

All capitalized terms which are not defined herein have the meanings given such terms in the Agreement.

---

DECLARATION OF INTENT TO ISSUE CITY OF CHICAGO VARIABLE RATE MULTI-FAMILY HOUSING REVENUE BONDS (OAKWOOD SHORES SENIOR APARTMENTS PROJECT) SERIES 2010 AND EXECUTION OF LOAN AGREEMENT WITH OAKWOOD SHORES SENIOR APARTMENTS L.P.

[O2010-2558]

The Committee on Finance submitted the following report:

CHICAGO, May 12, 2010.

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

Your Committee on Finance, having had under consideration an ordinance authorizing entering into and executing a loan agreement with Oakwood Shores Senior Apartments, L.P. and the authority to issue City of Chicago Variable Rate Demand Multi-Family Housing Revenue Bonds (Oakwood Shores Senior Apartments Project) Series 2010, amount of loan not to exceed: \$3,000,000, amount of bonds not to exceed: \$13,000,000, having had the same under advisement, begs leave to report and recommend that Your Honorable Body Pass the proposed ordinance transmitted herewith.